

MT LEGISLATIVE HISTORY

Chapter 700 19 85

Bill H (S) 449

Original bill & hist. ✓ C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) MAR 22 ✓ C

Hearing Date(s) FEB 22

MAR 28 ✓ C

FEB 23 ✓ C

 C

 C

 C

 C

Date Out MAR 28 ✓ C

FEB 23 ✓ C

Free Conference Committee: 4-23 + 4-24 : Law Library has no minutes

Did this bill originate in an interim committee? Yes No

Committee

Report

SENATE FINAL STATUS

SB 446 INTRODUCED BY HAGER, HIRSCH
PROVIDES FOR THE OFFENSE OF UNLAWFUL APPROPRIATION
OF RETAILER PROPERTY

2/18	INTRODUCED		
2/18	REFERRED TO JUDICIARY		
2/21	HEARING		
2/23	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/26	2ND READING PASS	31	11
2/27	3RD READING PASS	46	4
	TRANSMITTED TO HOUSE		
3/06	REFERRED TO BUSINESS & LABOR		
3/19	HEARING		
3/20	COMM REPORT-BILL CONCURRED AS AMENDED		
3/23	REREFERRED TO JUDICIARY		
3/28	COMM REPORT-BILL CONCURRED AS AMENDED		
3/30	2ND READING NOT CONCURRED	55	40
3/30	BILL KILLED		

SB 447 INTRODUCED BY R. MANNING, MCCORMICK
SUITABLE WORK FOR UNEMPLOYMENT COMP. PURPOSES,
CONFORM STATE TO FEDERAL LAW
BY REQUEST OF DEPARTMENT OF LABOR & INDUSTRY

2/18	INTRODUCED		
2/19	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/21	HEARING		
2/22	COMMITTEE REPORT-BILL DO PASS		
2/26	2ND READING PASS	49	0
2/27	3RD READING PASS	49	1
	TRANSMITTED TO HOUSE		
3/06	REFERRED TO BUSINESS & LABOR		
3/22	HEARING		
3/28	COMMITTEE REPORT-BILL CONCURRED		
3/30	2ND READING CONCURRED	95	0
4/01	3RD READING CONCURRED	99	0
	RETURNED TO SENATE		
4/04	SIGNED BY PRESIDENT		
4/08	SIGNED BY SPEAKER		
4/08	TRANSMITTED TO GOVERNOR		
4/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 409 EFFECTIVE DATE:	4/10/85	

SB 448 INTRODUCED BY LYBECK, CONNELLY, BRANDEWIE, ET AL.
AUTHORIZE BOARDS OF COUNTY COMMISSIONERS TO LICENSE
HORSE RIDING STABLES

2/18	INTRODUCED		
2/19	REFERRED TO LOCAL GOVERNMENT		
2/20	REREFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
2/22	HEARING		
2/22	COMMITTEE REPORT-BILL DO PASS		
2/26	2ND READING INDEFINITELY POSTPONED	32	14

SB 449 INTRODUCED BY REGAN, JACOBSON, ET AL.

SENATE FINAL STATUS

CREATES CRIME OF DOMESTIC ABUSE; REQUIRES ARREST FOR
ITS VIOLATION

2/19	INTRODUCED		
2/19	REFERRED TO JUDICIARY		
2/22	HEARING		
2/23	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/26	2ND READING PASS AS AMENDED	49	0
2/27	3RD READING PASS	50	0

	TRANSMITTED TO HOUSE		
3/06	REFERRED TO JUDICIARY		
3/21	HEARING		
3/28	COMM REPORT-BILL CONCURRED AS AMENDED		
4/03	2ND READING CONCURRED AS AMENDED	91	7
4/05	3RD READING CONCURRED	88	6

	RETURNED TO SENATE WITH AMENDMENTS		
4/13	ON MOTION RULES SUSPENDED		
	TO ACCEPT TO CONSIDER HOUSE AMENDMENTS		
4/17	2ND READING AMENDMENTS NOT CONCURRED	40	0
4/19	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE DISSOLVED		
4/22	FREE CONFERENCE COMMITTEE APPOINTED		
4/24	FREE CONFERENCE COMMITTEE REPORT		

	SENATE		
4/24	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT ADOPTED	47	0
4/24	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT ADOPTED	48	2
4/24	FREE CONFERENCE COMMITTEE DISSOLVED		
4/24	NEW FREE CONFERENCE COMMITTEE		
	APPOINTED		
4/24	NEW FREE CONFERENCE COMMITTEE REPORT		

	SENATE		
4/25	2ND READING NEW FREE CONFERENCE		
	COMMITTEE REPORT ADOPTED	50	0
4/25	3RD READING NEW FREE CONFERENCE		
	COMMITTEE REPORT ADOPTED	46	3

	HOUSE		
4/24	2ND READING NEW FREE CONFERENCE		
	COMMITTEE REPORT ADOPTED	52	39
4/25	3RD READING NEW FREE CONFERENCE		
	COMMITTEE REPORT ADOPTED	77	21
5/01	SIGNED BY PRESIDENT		
5/02	SIGNED BY SPEAKER		

5/02	TRANSMITTED TO GOVERNOR		
5/09	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 700	EFFECTIVE DATE:	7/01/85

SB 450 INTRODUCED BY CHRISTIAENS, NORMAN, ET AL.
CONSUMER LOAN LICENSEES INCLUDED AS REGULATED
LENDERS

2/19	INTRODUCED		
2/20	REFERRED TO BUSINESS & INDUSTRY		

SENATE BILL NO. 449

INTRODUCED BY REGAN, JACOBSON, ECK, BENGTSON, HARDING

IN THE SENATE

February 19, 1985	Introduced and referred to Committee on Judiciary.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass as amended.
	Correctly engrossed.
February 27, 1985	Third reading, passed. Ayes, 50; Noes, 0.
	Transmitted to House.

IN THE HOUSE

March 7, 1985	Introduced and referred to Committee on Judiciary.
March 28, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 30, 1985	Second reading, pass consideration.
April 3, 1985	Second reading, concurred in as amended.
April 5, 1985	Third reading, concurred in.
	Returned to Senate with amendments.

IN THE SENATE

April 13, 1985	On motion, rules suspended to accept. Motion adopted.
April 15, 1985	Received from House.
April 17, 1985	Second reading, amendments not concurred in.
April 19, 1985	On motion, Conference Committee requested and appointed.
April 22, 1985	Conference Committee dissolved. On motion, Free Conference Committee requested and appointed.
April 24, 1985	Free Conference Committee reported. Second reading, Free Conference Committee report adopted. Third reading, Free Conference Committee report adopted. Free Conference Committee dissolved. On motion, New Free Conference Committee requested and appointed.
April 25, 1985	New Free Conference Committee reported. Second reading, New Free Conference Committee report adopted. Third reading, New Free Conference Committee report adopted.

April 25, 1985

New Free Conference Committee
report adopted by House.

April 26, 1985

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *449*
2 INTRODUCED BY *Barbara Jackson Ech, Bengtson*
3 *Harding*

4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "DOMESTIC
5 ABUSE" AND PROVIDING THAT COMMISSION OF DOMESTIC ABUSE IS A
6 CRIMINAL OFFENSE; REQUIRING ARREST IN CASES OF DOMESTIC
7 ABUSE; PROVIDING AN ARRESTING OFFICER WITH IMMUNITY FROM
8 CIVIL LIABILITY UNDER CERTAIN CIRCUMSTANCES; PROHIBITING A
9 PEACE OFFICER FROM ACCEPTING BAIL ON BEHALF OF A JUSTICE OF
10 THE PEACE WHEN A PERSON IS ARRESTED FOR DOMESTIC ABUSE;
11 AMENDING SECTIONS 46-6-105, 46-6-401, AND 46-9-302, MCA."

12
13 WHEREAS, one of every two women in the United States
14 will be abused during her lifetime; and

15 WHEREAS, recent studies conducted in states that have
16 adopted statutes requiring arrest in cases of domestic abuse
17 show a reduced rate of repeat violence; and

18 WHEREAS, arrest removes the abuser from the home so the
19 abuse will not continue.

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 NEW SECTION. Section 1. Domestic abuse. (1) A person
23 commits the offense of domestic abuse if he:

24 (a) purposely or knowingly causes bodily injury to a
25 family member or household member; or

1 (b) purposely or knowingly causes reasonable
2 apprehension of bodily injury in a family member or
3 household member. The purpose to cause reasonable
4 apprehension or the knowledge that reasonable apprehension
5 would be caused shall be presumed in any case in which a
6 person knowingly points a firearm at or in the direction of
7 a family member or household member, whether or not the
8 offender believes the firearm to be loaded.

9 (2) For the purposes of this section and 46-6-401,
10 "family member or household member" means a spouse, former
11 spouse, adult person related by blood or marriage, or adult
12 person of the opposite sex residing with the defendant or
13 who formerly resided with the defendant.

14 (3) A person convicted of domestic abuse for the first
15 or second time shall be fined not to exceed \$500 or be
16 imprisoned in the county jail not to exceed 6 months, or
17 both. On a third or subsequent conviction for domestic
18 abuse, the person convicted shall be fined not to exceed
19 \$50,000 or be imprisoned in the state prison for a term not
20 to exceed 5 years, or both.

21 NEW SECTION. Section 2. Immunity. Any peace officer
22 acting in good faith in making an arrest pursuant to
23 46-6-401(2) is immune from civil liability that might
24 otherwise result by reason of his action.

25 NEW SECTION. Section 3. Notice of rights. Whenever a

1 peace officer arrests a person for domestic abuse, as
 2 defined in [section 1], if the victim is present, the
 3 officer shall advise the victim of the availability of a
 4 shelter or other services in the community and give the
 5 victim immediate notice of any legal rights and remedies
 6 available. The notice must include furnishing the victim
 7 with a copy of the following statement:

8 "IF YOU ARE THE VICTIM OF DOMESTIC ABUSE, the county
 9 attorney's office can file criminal charges against your
 10 abuser. You have the right to go to court and file a
 11 petition requesting any of the following orders for relief:

- 12 (1) an order restraining your abuser from abusing you;
- 13 (2) an order directing your abuser to leave your
 14 household;
- 15 (3) an order preventing your abuser from transferring
 16 any property except in the usual course of business;
- 17 (4) an order awarding you or the other parent custody
 18 of or visitation with a minor child or children;
- 19 (5) an order restraining your abuser from molesting or
 20 interfering with minor children in your custody; or
- 21 (6) an order directing the party not granted custody
 22 to pay support of minor children or to pay support of the
 23 other party if there is a legal obligation to do so".

24 Section 4. Section 46-6-105, MCA, is amended to read:
 25 "46-6-105. Time of making arrest. An arrest may be

1 made on any day and at any time of the day or night, except
 2 that a person cannot be arrested in his home or private
 3 dwelling place at night for a misdemeanor committed at some
 4 other time and place unless upon the direction of a
 5 magistrate endorsed upon a warrant of arrest. However, a
 6 person may be arrested in his home or private dwelling at
 7 night if he is being arrested pursuant to 46-6-401(2) for
 8 the offense of domestic abuse or aggravated assault against
 9 a family member or household member."

10 Section 5. Section 46-6-401, MCA, is amended to read:

11 "46-6-401. Circumstances in which a peace officer may
 12 make-an-arrest makes arrests. (1) A peace officer may
 13 arrest a person when:

14 (1)(a) he has a warrant commanding that such person be
 15 arrested;

16 (2)(b) he believes on reasonable grounds that a
 17 warrant for the person's arrest has been issued in this
 18 state;

19 (3)(c) he believes on reasonable grounds that a felony
 20 warrant for the person's arrest has been issued in another
 21 jurisdiction; or

22 (4)(d) he believes on reasonable grounds that the
 23 person is committing an offense or that the person has
 24 committed an offense and the existing circumstances require
 25 his immediate arrest.

1 (2) A peace officer shall arrest a person anywhere,
 2 including his place of residence, if the peace officer has
 3 probable cause to believe the person is committing or has
 4 committed domestic abuse or aggravated assault against a
 5 family member or household member, even though the offense
 6 did not take place in the presence of the peace officer. A
 7 peace officer may not issue a notice to appear in lieu of
 8 arrest under this subsection."

9 Section 6. Section 46-9-302, MCA, is amended to read:

10 "46-9-302. Bail schedule for minor offenses --
 11 acceptance by peace officer. (1) A justice of the peace or
 12 city judge may, in his discretion, establish and post a
 13 schedule of cash bail for offenses ~~not--amounting--to--a~~
 14 felony, except for offenses amounting to felonies and the
 15 offense of domestic abuse.

16 (2) A peace officer may accept bail in behalf of the
 17 justice of the peace or city judge in accordance with the
 18 schedule. In the event the peace officer accepts bail, he
 19 shall give a signed receipt to the offender setting forth
 20 the bail received. The peace officer shall then deliver the
 21 bail to the justice of the peace or city judge before whom
 22 the offender is to appear, and the justice of the peace or
 23 city judge shall give a receipt to the peace officer for the
 24 bail delivered."

25 NEW SECTION. Section 7. Severability. If a part of

1 this act is invalid, all valid parts that are severable from
 2 the invalid part remain in effect. If a part of this act is
 3 invalid in one or more of its applications, the part remains
 4 in effect in all valid applications that are severable from
 5 the invalid applications.

6 NEW SECTION. Section 8. Codification instruction.
 7 Section 1 is intended to be codified as an integral part of
 8 Title 45, and the provisions of Title 45 apply to section 1.

-End-

SECRETARY-STALEY, CINDY

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	DATE OUT
SB0424 WILLIAMS, BOB	2/15	2/22		PASS AS AMENDED	2/23
SB0429 PINSONEAULT, R.J. (DICK)	2/16	2/21		PASS AS AMENDED	2/23
SB0433 NORMAN, BILL	2/16	2/22		PASS AS AMENDED	2/22
SB0439 GALT, JACK E.	2/16	XXX	2/23	TABLED without hearing	2/22
SB0446 HAGER, TOM	2/18	2/21		PASS AS AMENDED	2/23
SB0449 REGAN, PAT	2/19	2/22		PASS AS AMENDED	2/23
SB0451 MAZUREK, JOSEPH P.	2/20	2/21		PASS AS AMENDED	2/23
SB0453 VAN VALKENBURG, FRED	2/20	2/22		PASS AS AMENDED	2/23
SB0459 FULLER, DAVID E.	2/21	2/25		PASS AS AMENDED	2/23
SJ0007 SHAW, JAMES N.	1/14	1/25	2/06	TABLED	2/25
SJ0019 MANNING, RICHARD E.	2/08	2/14	2/14	ADVERSE REPORT	2/4
				DO PASS	2/15

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

February 22, 1985

The thirty-seventh meeting of the Senate Judiciary Committee was called to order at 10:05 a.m. on February 22, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

TABLING OF SB 439: Senator Jack Galt, sponsor of SB 439, stated that in view of the fact that the contents of this bill were taken care of in the committee's action on SB 28, and in view of the fact there were no witnesses present to testify on the bill, he moved SB 439 be TABLED. The motion carried unanimously.

CONSIDERATION OF SB 449: Senator Pat Regan, sponsor of SB 449, testified that this bill addresses the subject of domestic abuse. The bill is an attempt to accomplish three things: (1) to define domestic abuse; (2) to make it a criminal offense; and (3) to prohibit a police officer from accepting bail (making it necessary for the offender to appear before a magistrate to post bond). Senator Regan stated she would like the committee to strike section 2 from the bill.

PROPOSERS: Nancy Challren, a volunteer from the Friendship Center, appeared in support of the bill (see witness sheet and written testimony attached as Exhibit 1). Amy Pfeifer, on behalf of the Women's Law Caucus of the University of Montana School of Law, appeared in support of the bill (see witness sheet and written testimony attached as Exhibit 2). Marjorie Thomas, on behalf of the Deer Lodge County Attorney's Office, appeared in support of the bill (see witness sheet attached as Exhibit 3). Caryl Wickes Borchers, representing the Montana Coalition Against Domestic Violence, testified in support of SB 449 (see witness sheet and written testimony attached as Exhibit 4 in addition to testimony also attached as Exhibit 4A presented on behalf of others who were unable to attend the hearing). Lenore Taliaferro, a staff person at the Friendship Center in Helena, testified in support of the bill (see witness sheet attached as Exhibit 5). Betty Elias, representing Hi Lines Help for Abused Spouses, testified in support of SB 449 (see witness sheet attached as Exhibit 6). Janet Schmidt, who works in one of the shelters for battered women and children in Great Falls, presented written testimony in support of the bill (Exhibit 7). Melinda, from Great Falls, also submitted written testimony in support of the bill (Exhibit 8). Mary, from Great Falls, testified she is in favor of SB 449 as a positive

statement domestic violence is unacceptable. Marti Adrian, a counselor from Missoula, testified that her clients ask they please do something with the batterer and for the batterer. John Ortwein, representing the Montana Catholic Conference, appeared in support of the bill (see written testimony attached as Exhibit 9). Gail Kline, representing the Women's Lobbyist Fund, presented written testimony in support of the bill (Exhibit 10). Jill Kennedy, representing the Friendship Center of Helena, Inc., submitted a witness sheet in support of SB 449 (Exhibit 11).

ADDITIONAL TESTIMONY: Susan Cottingham, representing the American Civil Liberties Union, stated she appeared at the hearing on SB 449 neither as a proponent nor as an opponent, although they are in support of the goals of the women who have testified. They support sections 3 and 6 of the bill; however, they believe problems arise under the section that requires mandatory arrest. They believe we are getting into a new area where we are requiring an officer to arrest at the scene. They believe the words "probable cause" should be strengthened. Otherwise, they are supportive of the other provisions of the bill.

OPPONENTS: John Scully, representing the Sheriffs and Peace Officers Association, appeared in opposition to the bill. He testified the difficulty they have with the bill is as they confront the situation at the time, they are being directed to make an arrest of the abuser. They will have to come to the conclusion that one of the people before them has violated the terms of the code. This bill allows a good faith mistake of arresting the abuser, but it does not allow for the mistake of not arresting the abuser. They might have to arrest both of the parties to make sure everyone is safe. Mr. Scully testified that the definitions in the bill are the definitions we have in the current law for assault. He stated he doesn't think the solution thought of here will help. He asked that the committee consider the predicament you put the officer in who has to decide on the spot as to who is doing what to whom. He asked if they fail to arrest the right person, can they be held harmless.

QUESTIONS FROM THE COMMITTEE: Senator Blaylock asked Senator Regan to address Mr. Scully's point. Senator Regan responded it is an important question, but pointed out that the system in place has not worked. She stated failure to arrest simply reinforces the view that violence is okay. She believes that arrest communicates to all that a crime has taken place.

CLOSING STATEMENT: Senator Regan asked that her comments to Senator Blaylock's question be considered her closing statement.

Hearing on SB 449 was closed.

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 022285

NAME	PRESENT	ABSENT	EXCUSED	--
Senator Chet Blaylock	X			
Senator Bob Brown	X			
Senator Bruce D. Crippen	X			
Senator Jack Galt	X			
Senator R. J. "Dick" Pinsoneault	X			
Senator James Shaw	X			
Senator Thomas E. Towe	X			
Senator William P. Yellowtail, Jr.	X			
Vice Chairman Senator M. K. "Kermit" Daniels	X			
Chairman Senator Joe Mazurek	X			

NAME: Nancy E. Challen DATE: 2-22-85

PHONE: 442-6800 (Friendship Center)

REPRESENTING WHOM? self + Friendship Center

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 022285
BILL NO. SB 449

My name is Nancy E. Challen, I am a volunteer at the Friendship Center of Helena and have worked with other battered women organizations. I have been a victim of extreme domestic violence on a number of occasions.

I have called the police and been told not to get so excited and call them back if something serious happens. When ~~the~~ I was stabbed with a butcher knife, I was not able to call the police but they did come to the hospital to tell me it was my responsibility to sign a warrant.

I wondered then and do now why they felt they could not arrest my ex-husband without badgering me at the hospital before my ~~medical needs~~ ^{medical needs} ~~were taken care of~~ ^{were taken care of}.

It has taken me years to begin to rebuild my life; certainly immediately after the attack, I was not able to make an intelligent decision concerning whether or not to have my ex-husband arrested. I also felt that the police were putting responsibility for the attack on me.

But I am not here for my sake, I never intend to allow myself to be a victim of domestic violence again.

2
I am here for the women who are going through this and the ones who will be and will be too emotionally traumatized to protect themselves.

You must realize a victim is emotionally upset and often terrified that anything she does pertaining to the abuser ~~arrest~~ ^{lead to} ~~cause~~ ^{more} physical damage to herself and possibly to her family and friends. She has often been warned of this and we all know it happens.

If the responsibility of the event is on the law, then the woman may be scared from ~~severe~~ retaliation.

And it is important to separate the abuser and the victim because the violence feeds on itself until it becomes uncontrollable. The abuser himself needs time to take his emotions down. The victim needs the time to make survival judgments about her life.

If the man has just left the house and ~~she~~ the woman doesn't know at which moment he will return, she cannot make solid judgments. She either has to get out immediately with almost nothing or take the chance on being trapped again. Many women lose almost all of their

14

material possessions and sometimes
their children.

— I walked out in ~~50~~ below zero
weather with two shopping bags and three
children under 7 yrs old. Other women
have had to leave without ^{their} children.

My ex-husband ~~was~~ meant to
decapitate me, I've always wondered,
if he had, would the police have been able
to arrest him without my taking the
responsibility.

~~that~~ An arrest is necessary for every-
one sake in most of these cases and
the abused ^{should} ~~not~~ ~~be~~ the one to be the
one to have to take this responsibility
immediately.

Thank you.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE

022285

BILL NO.

SB 449

TESTIMONY FOR WOMEN'S LAW CAUCUS BY AMY PFEIFER

(untestified to portion)

Family violence occurs in the country in staggering proportions. Each year thousands of men, women and children must deal with the tragedy of family violence. Estimates from the U. S. Attorney General's Task Force on Family Violence indicate that family violence is a crime of shocking magnitude. Battery is a mager cause of injury to women in America. Nearly a third of female homicide victims are killed by their husbands or boy-friends. Almost 20 percent of all murders involve family relationships.

These intentional, purposeful acts of physical and sexual abuse by one family member against another must be defined and recognized by the criminal justice system as serious criminal offenses. A strong committment by law enforcement officials, prosecutors, and courts in responding to family violence as a crime can aid in deterring, preventing and reducing violence against family members.

The criminal justice system has responded inconsistently to acts of violence. Violence committed by a stranger is classified as an assault. If a person is aprehended after beating up a stranger, the usual result is an arrest and prosecution for assault and battery. Yet, when the family member assaults another, it is commonly viewed as a family squabble, something less than a real crime. This disparity in legal responee to assaults must be eliminated. The problem for too long has been viewed as a private matter best resolved by the parties themselves without resort to the legal system today, with increasing public awareness of the seriousness and persuasiveness of family violence, there is a growing demand for an effective response from all community agencies, particularly the criminal justice system.

An assault is a crime, regardless of the relationship of the parties. A person beaten in the home is no less a victim than the person beaten on the sidewalk in front of the house. The law should not stop at the front door of the family home.

Traditional criminal justice practice in family violence cases has been to view an assault as a family disturbance, not requiring arrest. When an arrest does occur, law enforcement offices and prosecutors may fail to acknowledge the seriousness of the offense, believing that the victim will be hesitant to cooperate. ~~(other testimony on cycle of abuse and victim's belief that the violence is her fault?)~~ Penalties imposed by the court generally do not reflect the severity of the injury or the number of the prior convictions for the same offense. This under-enforcement of the law tells victims and assailants alike that family violence is not really a serious crime, if a crime at all. It is this wide-spread perception that has contributed to the perpetration of violence within the family.

Assaults against family members are not only crimes against the individual but also crimes against the state and the community. Intervention by the criminal justice system can effectively restrain assailants and make them responsible for their violence

like any other perpetrator of crime. Arrest by law enforcement officers sends a clear signal to the assailant: abusive behavior is a serious criminal act and will not be condoned or tolerated. Prosecution policies that are not dependent upon a signed complaint from the victim reinforce that message. Counts confirm it by imposing sanctions compensurate with the crime. Such measures not only have a deterrent effect on the abuser but also provide protection for the victim.

Intervention by the criminal justice system must also recognize and be sensitive to the trauma suffered by the victim. Family violence is a crime occurring in a special context with very different causes, manifestations and effects. Reporting and successful prosecution requires victim cooperation to achieve that cooperation after the initial call by the victim, law enforcement officials, prosecutors and judges, not the victim, must proceed with the monitor the criminal justice process. This not only reinforces the notion that abuse is a serious criminal act b ut also provides the victim the support necessary to participate in the criminal justice process.

The response of the criminal justice syste, punishing the offender and protecting the victim, is a critical element of a community effort to reduce family violence. The response must be decisive and expeditious and, most importantly, guided by the nature of the abusive act and not the relationship of the victim and abuser.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 022285
BILL NO. SB 449

NAME: MARJORIE L. THOMAS DATE: 2/22/85

ADDRESS: 509 Elm Anaconda, MT

PHONE: 563-2700 or 563-3838 (work)

REPRESENTING WHOM? County Attorney's Office, Anaconda
Deer Lodge City

APPEARING ON WHICH PROPOSAL: Senate Bill 449

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: I support this bill and especially the
mandatory arrest because this crime is never
prosecuted unless there is an arrest. In
several reasons: (1) without an arrest, the
initiator of prosecution becomes the person who
has been abused and that person will not
act because of fear of reprisal, ignorance of
how to proceed or feelings of helplessness or
that it would be useless (2) the officer
will not make a report because he knows from
experience that the abused person will not come
forward

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 022285
BILL NO. SB 449

(This sheet to be used by those testifying on a bill.)

NAME: CARYL Wickes BORCHERS DATE: Feb. 21, 1985

ADDRESS: 3251 4th Avenue South, M. Falls, Mt.

PHONE: 761-0707

REPRESENTING WHOM? Montana Coalition Against Domestic Violence

APPEARING ON WHICH PROPOSAL: HB 449

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENT: I have written testimony to present.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4
DATE 022285
BILL NO. SB 449

Capitol Station
Helena, Montana 59601

February 20, 1985

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4

DATE 022285

BILL NO. SB 449

Dear Legislators,

I am the Legislative Representative from the MONTANA COALITION AGAINST DOMESTIC VIOLENCE and we are urging you to support Senate Bill 449 (REQUIRING ARREST LAW).

Before Richard Gelles, Maury Strauss, Susan Steinmetz, and Dr. Lenore Walker started to do in-depth research on FAMILY VIOLENCE and the DYNAMICS OF ABUSIVE RELATIONSHIPS, the Sociologists and Psychologists were saying to Law Enforcement who were dealing with Family Violence, "Let's just mediate and send the Abuser around the block for a walk;" or the Law Enforcement would say, "we will not get involved in Domestic Problems." Later, we found through RESEARCH that in PHASE 2 of the BATTERING CYCLE-- the Abuser is in pure RAGE. A WALK AROUND THE BLOCK will not be a long enough "COOLING OFF" period. Instead, an enforced separation of the victim and assailant is often necessary to permit the passions on all sides to subside and to take the reasonable steps necessary to end the violence and prevent future abuse.

To ensure the safety of the victim and provide just and fair treatment of the assailant, the rights of both parties must be equally considered and balanced. When considering release or setting bail, judges must carefully assess the dangerousness of the abuser's behaviour and the likelihood that the violence will continue. When that probability is great, overnight incarceration of the abuser may prove to be an effective means to prevent the continuation of violence. Not only will this reasonable cooling-off period provide immediate protection for the victim, but the assailant will more likely recognize the serious criminal nature of violence within the family. Also, important service and treatment contacts and referrals can be made for both the victim (see enclosed card the Law Enforcement uses in Gt. Falls, and we are currently making up another information card.) The referral for the Abuser can be to counseling such as 'The Alternativesto Violent Behaviour Group' at the Mental Health in Gt. Falls.

I have worked with over 4,000 Abused Women and Children, and many of them have related to me such stories as the following:

-Last Saturday morning (Feb.16/85) in a small town outside of Gt. Falls, a client of mine was threatened he would kill her and he left to go get his gun out of his car. His son told him, "If you kill mom, I'll have to kill you." This is the second time that the son has had to say this to his father. The client told me that he threatened to "Drop the Sheriff" if she called him.

-the client who he took out on a lonely road and shot at her, missing her and hitting the car engine. Another time she ran out of the house and he fired a shot and hit the house next door. When the Police were called, they suggested she move and get out of town. She asked, "Don't I have any rights?" Why, do I have to always be the one to leave?" They also did nothing to the Abuser.

- My client who had moved to Great Falls with her three children and after she paid the rent and got settled, her husband showed up and threatened to "beat her to death." When the Police came they told her they couldn't do anything-- It was a family matter."

A lack of understanding of the nature of FAMILY VIOLENCE encourages others not directly involved to keep the cloak of SILENCE in place. The LEGISLATIVE, JUDICIAL, LAW ENFORCEMENT, and MONTANA COALITION AGAINST DOMESTIC VIOLENCE and SERVICE PROVIDERS will have to use their creative minds to 'BREAK THE CYCLE OF VIOLENCE' in MONTANA as we have before in the last 4 Legislatures. This includes EDUCATING the PUBLIC about: 1) The CRIMINAL nature of family violence; 2) The Human and Economic Costs of Family Violence; Information on local resources for victims; 4 and Methods of preventing Family Violence.

Sincerely yours,

Caryl Wickes Borchers
Caryl Wickes Borchers, Executive Director Mercy Home
Chair. State Task Force on Spouse '78-82

Study: Arrest deters family violence

WASHINGTON (AP) — Victims of assaults by family members are nearly twice as likely to be attacked again if the police do not arrest the attacker, according to a federally funded experimental study released Monday.

The experiment, conducted in Minneapolis in 1981-82, found that arrest, even if not followed by conviction, was a far more effective deterrent than the traditional police responses of removing the attacker from the scene for eight hours or just providing advice and mediation.

James K. Stewart, director of the Justice Department's National Institute of Justice, which funded the experiment, said the results show "the police should use arrests quite frequently in typical domestic violence cases if they want to reduce assaults."

The experiment was conducted by the Police Foundation, a private, non-profit police reform group, and by the Minneapolis Police Department in misdemeanor assault cases between family members where there was no life-threatening or severe injury. The three responses — arrest, removal and advice — were used on a random basis.

In 35 percent of the cases where police did not make an arrest, victims surveyed later said there was a repeated assault within six months. But in those cases where police made an arrest, only 19 percent of the victims reported repeated violence.

The results were even more dramatic when measured by official police reports rather than follow-up interviews. In 22 percent of the households in which no arrest was made, another crime report was filed within six months. But a repeat police report was found in only 10 percent of the households where an arrest was made.

The study also found that when police officers took time to listen to the victim before making an arrest, the deterrent effect doubled. The study suggested that this procedure lets the suspect know that the victim can influence police behavior.

Like other studies of family violence, the Minneapolis experiment found that its 314 cases usually involved unmarried, minority or mixed-race couples, with less-than-average education and a greater-than-average likelihood of being unemployed and having a previous police record.

Of the 136 arrests in the study, only three resulted in convictions, prompting Stewart to conclude that "arrest appears to deter violence even when the courts take no action."

Noting that this was the nation's "first controlled experiment in the use of arrest," Stewart said, "Some police departments around the country, including New York City, Houston, Dallas and Minneapolis, have already revised their policies in light of these results." Preliminary findings were released a year ago.

The study's co-authors, Police Foundation vice president Lawrence W. Sherman and sociology professor

Richard A. Berk of the University of California at Santa Barbara, said that women's groups had pressed police departments in recent years to increase arrests in family violence cases.

But Sherman and Berk pointed out that 22 states still bar police officers from making arrests unless they have a warrant or they actually witness the assault. "This report shows that, at the very least, those laws need to be changed," Sherman said.

A Police Foundation survey of police departments serving more than 100,000 people found that only 10 percent currently encourage arrests in

domestic assault cases. Almost none of the departments kept separate statistics on domestic assault cases.

Minneapolis Police Chief Anthony V. Bouza attributed the traditional reluctance to make arrests in such cases to "the absence of legislation that would enable officers to make arrests in misdemeanor cases that did not occur in their presence; the male-dominated psychology of a police world that did not relish interference in a 'man's castle' and affairs; and the notable reluctance of convicted women to come forward or, having found the courage, to see the process of arrest and prosecution through."

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4

DATE 022285

BILL NO. SB449

Feb. 12/85

Man kills Anaconda policeman ex-wife, self in domestic dispute

ANACONDA (AP) — An Anaconda police officer investigating a domestic dispute was shot to death by an unemployed former smelter worker who then killed his ex-wife and himself, Police Chief Jim Connors said Monday.

Connors said Lt. Tim Sullivan went at 8:20 p.m. Sunday to a disturbance at the home of Ida Terkla, 13. She had reported that her ex-husband was pulling telephone wires from the side of her house, the chief said.

Sullivan entered the house, walked down the basement stairs and was shot once in the side and fell down, Connors said.

Connors said Sullivan was shot by John Terkla, the woman's ex-husband, who then shot the officer in the shoulder and in the back of the head with a .357-caliber pistol.

Terkla then killed his ex-wife, put his gun to his head and shot himself in an attempt to commit suicide, Connors said.

Officials said Mr. Terkla died about 1:29 p.m. Monday at St. James Community Hospital in Butte.

The couple's two children, who had been in the house, fled to a neighbor's house after the shooting, the chief said.

The chief said Mr. Terkla had worked at the smelter in Anaconda,

which was closed in 1980, and has been unemployed recently. He said the couple had recently been divorced.

The Montana Standard reported that Sullivan, 54, was just a few months from retirement.

It was the second fatal shooting of a Montana policeman in two months. On Dec. 6, a Missoula County sheriff's deputy was fatally shot when he stopped a man for questioning about the theft of \$11 worth of gasoline in Missoula.

Fred Van Dyken of Great Falls is to stand trial for murder on May 13 in connection with that shooting.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO.

4

DATE

022285

BILL NO.

SB 449

Opinion and comment

An officer died, a problem continues

Anaconda Police Officer Tim "Sox" Sullivan has fallen to one of the greatest fears of policemen — walking in on a domestic dispute, and not walking out.

The emotions involved in the battles among spouses, divorced persons and lovers are strong, sometimes overwhelming.

Policemen, called upon to serve and protect, know the inherent dangers in such situations. In his 17 years of service, Sullivan, no doubt, responded to myriad "domestics" as they are known.

The social pressures brought on by hard economic times, and the harsh realities of unemployment and divorce sometimes are not manifested as violently as when Officer Sullivan and Ida Terkla were murdered.

But, such violence is always a possibility.

No amount of potential, non-

police, community intervention can stop every domestic violence situation from erupting into murder. But, such community programs can help.

When Officer Sullivan received the call to the Terkla home last Sunday he might have been thinking about the possibility of being shot.

He might have thought only of preventing a further problem.

Whatever the case, he sacrificed his life to serve and protect.

Anaconda, other Montana cities and the Legislature should take a renewed look at the problems surrounding domestic violence.

There may well be some untried methods of early intervention. If some solutions can be found, Officer Sullivan's death, while remaining tragic, might lead to the prevention of similar deaths in the future.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4
DATE 022285
BILL NO. SB 449

February 21, 1985

Dear Legislators:

When you love someone and are so afraid of the same person your emotions are torn. I was a victim of a violent marriage. My children were victims and in many ways still are victims even though we have since fled the violent man we knew as a husband and father.

I came from a very loving and gentle background. My parents never displayed anger or so much as spoke harshly to one another. I was always loved and loving deeply was easy for me.

When I married I felt I married the most wonderful man alive. I soon learned the sweet, kind, loving man I married had another side. He became violent and angry. He pushed and shoved. He made threats often. The first real fear he instilled in me was while I was pregnant with our first child. He hit me so hard he busted my lip and bruised my mouth. I ran for the phone to call for help from his parents and he tore the phone out of the wall. He was afraid I was calling the police. Instead I was only going to call his father. Over the years many times I did call his father because I was too afraid to call the police. I knew he would only have been released right away and then what would he have done to me?

After 8½ year of fear, because I never knew what would trigger his anger, I took my children and ran for safety. He had torn up our home in a fit of rage and threatened suicide in front of the children. This was a man I didn't even know any longer. He lost control completely. Yet the fear he caused always made me even further afraid to call for help from the police. If there could have been the promise of his not coming immediately home to "really get even" I'm sure I could have made the call - but there wasn't.

After I left, my husband threatened my life and to take the children and run with them. I went to the police and all they could do was suggest I seek shelter in a home, because in civil matters it is very difficult to get involved. Everything seems to be "after the fact". I am thankful there was such a home for my children and myself to go to, but what of women who have no readily available shelter? If they call the police and their spouse is taken into custody what happens when he is released two hours later? There is a potentially violent person who is even more angry after the humiliation of being removed. If there were a 24 hour period where the abused or threatened woman could know she was safe she could make arrangements for herself and children. They need time - without it there is possibly a time bomb being released and ready to explode; and he won't blame himself for the situation but rather the wife for having put him into his embarrassing situation. Most men who abuse don't ever let others see this violent side of himself. Only his wife knows the extent of his cruelties. She needs a chance to make a choice. He needs time to cool down. If he knows he can't get away with abusing he'll stop and think first. If my husband would have realized that by abusing me he could have been held for 24 hours maybe he wouldn't have been so

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4A
DATE 022285
BILL NO. SB 449

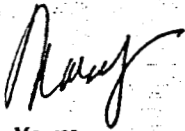
page 2

quick to hurt me. And if I would have known I had 24 hours to decide where to go for help maybe my children and I wouldn't have had to flee our home with only the clothes on our backs.

Please take into consideration what a help the mandatory 24 hours holding time would be to women who are in a desperate and frightening situation.

Thank you for your consideration.

Sincerely,



Mary

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4A

DATE 022285

BILL NO. SB 449

February 1985

Dear Legislators,

This piece of testimony has been prepared to urge your support of Senate Bill 449. As a volunteer counselor at a shelter for battered women and their children, I have dealt with the victims of such violence, women and children who have had to leave their homes as the only means of escape from their batterers.

However, our shelters mainly address the situation of the victim, educating her and her children about the cycle of abuse, and telling them that this is not normal behavior--it is learned behavior that must and can be "un-learned."

What is just as important, but more difficult to do, is to contact the abuser and tell him the same--that this behavior is not normal and is criminal. Under the legislation proposed in this session, such contact could be made through overnight incarceration of the offender, as well as any longer-term incarceration that could occur as a result. Currently, the length of time for which a domestic violence offender is incarcerated, is usually very short, if at all. In this proposed method of dealing with domestic violence, the seriousness of the offense would be realized, and referral could then be made to various agencies, therapists or centers that could assist the person in restructuring their behavior. Through treatment, the family situation has a better chance, and calls for police intervention may no longer be needed. What we are doing under our current, lenient laws, is enabling this behavior to continue, and subjecting our police officers to repeated visits to particular families.

In the recently published Attorney General's Task Force Report On Domestic Violence, it is recommended that legislation, such as mandatory arrest and warrantless arrest, be enacted to deal with domestic violence. One opposing opinion has been presented to our proposals--that these and similar legislation would violate family privacy. In instances of domestic violence, where the matter cannot be settled among the parties because of its high emotional content, any individual should be able to turn to the law for protection, and receive that protection.

It is not the intent of our proposed legislation, nor that of battered women shelters, to split the family. Rather, these are effective means for treating the problem of domestic violence, from the standpoint of both victim and, with revised legislation, offender as well. In these ways, we can draw society's attention to the seriousness of domestic violence, and continue to improve methods of prevention and treatment.

Your support, please.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4A

DATE 022285

BILL NO. SB 449

Sincerely,

Cathy St. John
Cathy St. John

February 20, 1984

Dear Legislators,

Please support the Mandatory Arrest SB #449!

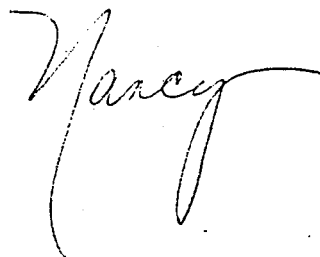
I was a victim of domestic violence! I never called the police when my spouse was taking out his frustrations on me by slamming me up against a wall, choking me, punching me in the face or stomach, or kicking me, as I knew when they (the police) came he would NOT be arrested and he would then have killed me and my children.

Had they arrested him and kept him in jail for 24 hours he would have had a long enough cooling off time that when he returned he would not have continued the violent behavior. Plus he would have begun to realize that he no longer could continue this type of behavior without serious consequences. As it was he knew no one would do anything about his behavior, therefore, it was acceptable for him to be abusive to me and my children. He never believed he had a problem and the only one who told him that he did was me, which brought about more beatings.

I firmly believe that we as a society need to make a positive statement that violence in the home is NOT acceptable. I can't think of a better way to make that statement than to arrest the person who is assaulting his spouse and place the responsibility for this crime on him rather than on the victim.

Thank you for your anticipated support!

Sincerely,



SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4A

DATE 022285

BILL NO. SB 449

February 1985

Dear Legislators,

A mandatory arrest law would help battered women, particularly those in cases similar to mine. Under this law, if there is evidence of abuse, law enforcement agencies would be able to arrest the offender and incarcerate for 24 hours.

I am a battered wife! Knowing that as long as the officers (if they show up) are on the premises, the batterer will settle down, but as soon as the officers leave, the batterer continues his rage on the victim. At this point, the law's hands are tied.

I have gone to the shelter several times. I was not able to return to my own home, as my (now) ex-husband continued to remain in it, running up staggering bills which I was responsible for, since I own the home. Being a woman and a mother, the stress factor has been very bad for my health, and so seeking employment to help with the bills has been impossible.

It will take several years to overcome the financial and emotional abuse I was under. The laws for protecting women and children in abusive situations should be seriously looked into. This is a crime that has been hidden for centuries, and is now coming into light. Often, the battering disappears temporarily, only to return, even worse; all battered women are aware of this. More legislation is required to provide protection from these abusers.

Thank you

Carolyn

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4A

DATE 022285

BILL NO. SB 449

February 15, 1985

Dear Legislators:

I'm writing this letter to you to request your support in regards to the "Mandatory Arrest Law" which would provide immediate action in arresting abusers.

I recently went through a divorce which ultimately brought to light the abusive situation I had been living under for many years. To understand "my story", you must realize my ex-husband is a very egotistical, irresponsible person who is also very manipulative and domineering. This was "learned behavior".

Immediately after the divorce, my life was threatened several times and ways and through my minister, I sought help from the Mercy Home and Caryl Borchers. His next tactics included suicide threats, numerous statements involving friends and relatives and my employers and additional threats on my life.

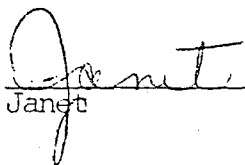
Several weeks after the divorce at approximately 2:15 A.M., I alarmingly awoke to a noise downstairs, turned on my light and was faced with him charging up the stairs carrying a loaded shotgun. During the next two hours, my phone was ripped off the wall so I could not call for help and I was sexually abused. As soon as I was free to get to my neighbors house, the police were there within minutes; by that time, of course, he was gone. Even though I told the police I would press charges, it took seven days for the arrest orders to be processed through the city courts, and by that time, he had "confessed" to what he had done, sought professional mental help for 2-3 days, and appeared in court where they "slapped his hands" and told him to leave me alone. Therefore, any charges I had pressed were dropped.

In addition to the above, it took better than three weeks to get a permanent restraining order processed and served on this person. In the meantime, I felt my life was very much in danger, and the constant fear I lived with was devastating. I try to live a good Christian life, but there's only so much a person can tolerate and I firmly believe that no person has the right to abuse another person by such actions.

I feel the worst part is behind me and each day is better than the last. My concern now is for the many abused people in our society today who do not have the strong support of family and friends, and Caryl Borchers and the rest of the Mercy Home Personnel as I did. Abused people, whether they be men, women or children, need better protection, immediate action by our law enforcement, and concerned citizens to come to their aid.

I strongly urge you to support the "Mandatory Arrest Law" and House Bill 310, "self help restraining order".

Sincerely,


Janet

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4A
DATE 022285
BILL NO. SB 449

NAME: Lenore F. Taliaferro DATE: 2/22/85

ADDRESS: 1026 Ninth Ave., Helena, MT. 59601

PHONE: 443-0489, 442-6800 (work)

REPRESENTING WHOM? Friendship Center of Helena, Inc.

APPEARING ON WHICH PROPOSAL: SB 449

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: This bill's passage would accomplish
2 important ^{& urgent} purposes:

1) Provide for a few safe hours whereby the victim could gather important papers & personal possessions. Almost always, the abuser destroys those things such as birth certificates & other important necessary papers & has time to withdraw monies from joint accounts rendering the victim with no means of escape or adequate clothing.

2) Removes the victim from the ultimate violence of death when the abuser is not allowed to retaliate further by the victim's action of calling for help. Please vote "do pass" on SB 449.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 5

DATE 022285

BILL NO. SB 449

NAME: Betty Inguillo Elias DATE: 2/22/85

ADDRESS: P.O. Box 1509, Navarre, Mt 59501

PHONE: 265-1160 -

REPRESENTING WHOM? Ni ~~the~~ Lines Help for Abused Spouses

APPEARING ON WHICH PROPOSAL: SB 449

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENT: I feel it is very important that SB. 449
is passed. Having working with a battered group
for over a year I can understand the need to
arrest and prosecute men who batter their
wives or girlfriends. Most of the men in the Navarre
Battered group agree that if they had been
arrested they would have sought treatment
much sooner.

I also feel it is very important to allow
police officers immunity when making an arrest
I also feel police officers need to make arrests for
their protection as well as the victim and
offenders protection.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 6

DATE 022285

BILL NO. SB 449

re: Mandatory Arrest

Dear Legislator,

I am currently working in a shelter for battered women and their children. I strongly request your adoption of the Mandatory Arrest Bill.

Through my work with battered women I have seen how detrimental the lack of arrest has been. An abused woman will often call the police for help during phase 2 of the cycle, or the 'Acute Battering Incident' phase. The victims are often too afraid to press charges against their batterers for fear of intensified beatings or threats of death from their attackers.

One of the women that I have worked with, Sandra, called the police out of desperation after being beaten by her husband. When the police arrived Sandra ran out to the driveway to meet them, and explained the beating to the officers. The officers asked the man to leave the house for a few hours, a 'cooling off period'. The man told the officers that he merely wanted the house key because he was afraid that Sandra would lock him out of the house. The officers had her give him the key, gave the man a 'slap on the wrist' and told him to leave her alone.

When the police left the man was even angrier at Sandra for calling the police then he was in the beginning. At this point the man and Sandra's 14 year old son (learned behavior) took Sandra inside the house, handcuffed her hands behind her back, and together they beat her.

Had this man been immediately arrested not only would his temper have cooled, but Sandra would have had time to escape to safety, and the police would have reinforced in the man the fact that what he did was an assault and against the law.

The Minneapolis Domestic Violence Experiment by Lawrence W. Sherman and Richard A. Berk, as written in the Police Foundation Reports was conducted to determine how police should respond to domestic violence calls. The study found that;

arrest was the most effective of three standard methods police use to reduce domestic violence.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 7

DATE 022285

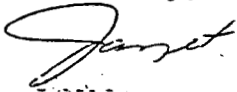
BILL NO. SB 449

re: Mandatory Arrest

The other police methods - attempting to counsel both parties or sending assailants away from home for several hours - were found to be considerably less effective in deterring future violence in the cases examined.

I urge you to accept the Mandatory Arrest Bill and to place the punishment of an assault on the batterer, not the victim.

Sincerely,



Janet

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 7

DATE 022285

BILL NO. SB 449

RE: MANDATORY ARREST

Dear Legislators:

I am writing on behalf of many women in Montana who have been, are, or will be victims in a battering relationship. I speak from personal experience as I married a man who was extremely violent. This letter is graphic simply because generalities don't give one a clear picture of what really goes on in a relationship where the husband is a batterer.

I came from a good christian home where as a minister, my father, along with my mother, taught my sisters and I to be kind, loving, and empathetic toward the needs of others. In contrast to my husband's childhood of physical abuse, violence on the streets, and scraping for himself, my childhood was based on love, comfort, security, and a firm hand of correction where needed. So what I went through for the next two years was totally foreign to me.

After obtaining a college degree, I returned to the city where my parents resided. While there, I met and married a man who was kind, helpful, loving, and cared for me. His flip side was that of extreme jealousy, possessiveness, uncontrollable outbursts of violence, an obsession with knives, an alcohol problem, and severe beatings, even when I was pregnant. On one occasion when I was going to leave him, he took me for a ride in our car and got a gun and said he was going to kill himself if I left him. I wonder if he planned to shoot me, too. I don't know. During another incident, as if it was premeditated, he made me pack our baby's belongings, then tied me up, gagged me, beat me, and told me he was going to kill me and leave with our 2½ month old baby. The list of violent incidents goes on.

After living through a year of marriage in this hell, I left him and was separated for a month. I lived in Great Falls but went to Kalispell while my parents were on vacation. Upon our arrival back to Great Falls, my husband wanted to see the baby. Since I had had several conversations with him during our separation during which he said he had changed as the result of a religious revival in his life, I trusted him. So my father dropped me off at the house while he went to visit one of his elders for a short time. My husband tried to get me to leave the house with him to go for a ride, and upon my refusing, he went into a rage. He pulled a long knife from the kitchen drawer and informed me that I was going with him. I talked him into throwing the knife down and after pulling the phone cord out of the wall, he started dragging me out the door. I started to scream because I knew it was my only chance (he had on several occasions told me he was going to take me to a remote area someday and kill me). He threatened to knock me out if I didn't be quiet, and next tried to force me into the car. Then something snapped in him, and he quit, just like that. I ran to a neighbor that I noticed was watching the incident and told him what had happened and that my husband was going to take the baby. Upon being informed by my neighbor that my husband was a "nice" guy and wouldn't do such a thing, my husband then grabbed the baby from me and ran to the car and left. As it turned out, he went around the block, brought the baby back to me and said he couldn't separate us. He just wanted money to get out of town. A police officer arrived, and I went to a neighbor's house to call my father who came right over. Dad, who thought I should press charges, talked to the officer. The officer was very reluctant to get involved because it was a domestic situation, and said the authorities can't really do much unless I am divorced. He also indicated my husband could go to jail that night and get out on bail the next day. Then he stated it was all over for that night and to "let a sleeping dog lie." I also didn't want to be responsible for sending him to jail because I figured if he was going to go to jail, he was going to put himself there as I didn't want him coming after me when he got out. After a few more minutes (by this time my husband has disappeared) the officer said,

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 8

DATE 022285

BILL NO. SB 449

"Well, I'd better get back to work." What did he think he had been doing for the past 45 minutes? So when he left, we had no idea where my husband was. We were just about to leave when he came out of the park from across the street. He started coming at my dad with a look of rage in his eyes but stopped only after my father yelled for someone to call the police.

The next day, my husband was on a plane to the city where we used to live. I divorced him, and before it was even finalized, he almost killed a guy with a hammer and was sent to prison in that state for a couple of years. He got out on parole last May and is now in California. It's only a matter of time before he victimizes someone else.

Had there been a mandatory arrest law during these incidents, the course of his violence could have been altered. The pressure of having one's husband arrested should not lie on the shoulders of the wife but on that of the officer who answers the call for help. He is the one with the authority and training to handle situations such as this, especially since my husband no longer had a weapon when the officer arrived. These batterers need to take responsibility for their own actions and be headed in the direction of extensive psychiatric counseling.

What needs to be prevented are the beatings and homicides that are so prevalent in our society. Let's put these actions on the criminal's side where they belong. It is crucial that they be ordered out of the house and placed in jail for a "24 hour cooling off period" where they can evaluate their actions and criminal behavior.

Thank you for your consideration.

Melinda

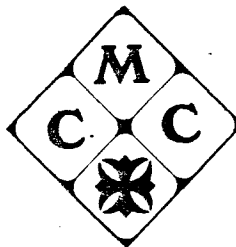
SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 8

DATE 022285

BILL NO. SB 449

34



Montana Catholic Conference

February 22, 1985

CHAIRMAN MAZUREK AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE:

I am John Ortwein representing the Montana Catholic Conference. The Montana Catholic Conference is the liaison between the the two Catholic Dioceses of Montana in matters of public concern.

I am here today as a supporter of Senate Bill 449.

As line 13 on page ~~of~~ 1 of the proposed bill states, one of every two women in the United States will be abused during her lifetime. That translates to an abusive situation occurring every 18 seconds somewhere in the United States. A study conducted by the United States Catholic Conference entitled: Violence in the Family; A National Concern/A Church Concern, shows that a disproportionately large number of attacks by husbands seem to occur when the wife is pregnant, thus posing a grave threat to the life of the unborn child.

Research by Dr. Lenore Walker indicates a definite cycle composed of three phases in most domestic violent situations. The first one is the tension-building stage; the second is the explosion; and the third is the calm, loving, respite stage. Therefore, it seems logical to us that an arrest should be made at any time for the offense of domestic violence.

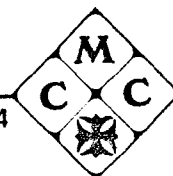
The Montana Catholic Conference urges your support of Senate Bill 449.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 9

DATE 022285

BILL NO. SB 449



WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



February 22, 1985

Testimony for the Women's Lobbyist Fund by Gail Kline, before the Senate Judiciary Committee.

Mr. Chairman and other members of the Senate Judiciary Committee:

For the record my name is Gail Kline, representing the Women's Lobbyist Fund (WLF) speaking in favor of SB 449.

Chief of National Center for Disease Control, Dr. Mark Rosenberg, said, "Attacks by husbands on wives result in more injuries requiring medical treatment than rapes, muggings and auto accidents combined."*

Today, we have heard testimony from victims who escaped from violent abusive situations. Victims who have overcome their "learned helplessness."

To explain "learned helplessness", I will use an example of an experiment from the book, The Battered Woman, by Lenore E. Walker, 1979, page 46. Baby rats were placed in an experimenter's hand and held until all voluntary movements ceased. They were then placed in a vat of water and some swam for 30 minutes while others sank immediately to the bottom. Other baby rats that were placed immediately in the vat of water without "learned helplessness" swam for up to 60 hours before drowning.

Similar to the baby rats, once we believe we cannot control what happens to us, we operate from a belief of helplessness. This helplessness is why battered women remain in violent abusive situations.

By arresting the abuser, we allow time for the abused to start to recognize and overcome "learned helplessness" and the abuser has time for cooling off.

With the help of SB 449, we reduce the cycle of domestic violence.

WLF urges you to pass SB 449.

*Violence Epidemiology Branch. Daily Inter Lake, November 27, 1984.
From a study on violence as a major public health problem.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 10

DATE 022285

BILL NO. SB 449

NAME: Jill Kennedy DATE: 2-22-85

ADDRESS: 4245 Conger Dr.

PHONE: 442-3297

REPRESENTING WHOM? Friendship Center of Helena, Inc

APPEARING ON WHICH PROPOSAL: SB 449

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: I strongly support the passage
of SB 449. I believe, among other
things, that arrest of the abuser is
definitely a deterrent to recurrent
episodes of domestic abuse.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 11
DATE 022285
BILL NO. SB 449

Judiciary

VISITORS' REGISTER

SB 418, 421, 424, 433, 439, 449, 453

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Al Anderson	A Victim	SB 419	✓	
Carol Wicker Borchers	MT Coalition Against Domestic Violence	SB 449	✓	
Janet Schwartz	Great Falls	SB 449	✓	
Mary Z. Bille	Victims of Great Falls Mass	SB 449	✓	
Paul M. Lohman	Self 418, 421, 424		✓	
DAVID L. ACKMAN	Int'l Public Health Assoc	SB 418	✓	
Michael R. McMeeKin	Missoula Co. Sheriff's Dept.	SB 453	✓	
GREGORY HINTZ	" " " "	SB 453	✓	
Ann Hefernan	Women's Law Caucus, Mtd.	449	✓	
Barbara Bonnett	Women's Law Caucus, Mtd.	449	✓	
Theresa L. O'Hara	Deputy Atty Gen. Admin. Serv. Div.	419	✓	
Wes Tweten	A. Hensley, Special	433	✓	
John Holm	Landowner	418-421 / 435	✓	
Bill Asher	APA, PCA + MCPA	418 421 424	✓	
Beth Joquille, Elias	Historic Help to Women's Services	SB 449	✓	
Barbara F. Taliaferro	Friendship Center	SB 449	✓	
Dice Kennedy	Friendship Center of	SB 449	✓	
Tommy Boudel	Friendship Center of Helena	SB 449	✓	
James E. Challen	Friendship Center & self	SB 449	✓	
Lorena Grosfield	Sweet Grass County Preservation Assn.	418-421 424	✓	
Pat Underwood	MT Farm Bureau	418-421 424	✓	
Karen C. Masker	MT. Gov. Relief	418-421 424	✓	
Mike Mason	WETA	418-421 424	✓	
Laura Lohman	WIFF	418-421 424	✓	
John Utter	MT Cath Conf.	449	✓	

(Please leave prepared statement with Secretary)

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

February 23, 1985

The thirty-ninth meeting of the Senate Judiciary Committee was called to order at 12:10 p.m. on February 23, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

ACTION ON SB 392: Senator Shaw moved SB 392 be recommended DO PASS. Senator Towe asked Senator Daniels if he had anything to say about the constitutional problem raised. Senator Daniels responded he sees no constitutional problem with this bill. Senator Towe stated one of the precepts of the constitution is the death penalty is arbitrary. He also had concerns that the word "persistent" is not defined. Mr. Petesch stated we have that classification in the current law. Senator Daniels moved to amend SB 392 as follows:

Page 1, line 19.
Following: "inmate"
Strike: "may"
Insert: "must"

The motion failed (see roll call vote attached as Exhibit 1). Chairman Mazurek then reverted to Senator Shaw's motion that SB 392 be recommended DO PASS. The motion carried with Senators Blaylock, Brown, Mazurek, and Towe voting in opposition.

ACTION ON SB 364: Senator Pinsoneault distributed proposed amendments to the bill (Exhibit 2). He stated the bill as originally drafted only included Schedule I drugs from our criminal code. He felt that was too restrictive and left the bill with practically no meaning at all. Schedules I and II would encompass popular street drugs. Senator Pinsoneault suggested this bill as a preventive piece of legislation to give notice to those that come to Montana, if you deal in drugs and someone dies because of it, you might be put to death. He thinks the preventive aspect of this bill is very important, but hopes it will never be used. Senator Towe asked if Schedules I and II include most drugs except marijuana. Senator Pinsoneault responded those that have an accepted medical use are on Schedules III, IV, and V. Those that create a drug dependency are on Schedule II. Senator Pinsoneault moved the proposed amendments be adopted. The motion carried unanimously. Senator Pinsoneault moved SB 364 be recommended DO PASS AS AMENDED.

42

Mr. Roberts stated no. Senator Towe moved as a substitute motion that SB 429 be recommended DO NOT PASS. The motion failed (see roll call vote attached as Exhibit 6). Mr. Petesch reminded the committee it needed to consider the Secretary of State's amendments before voting on the bill. Senator Pinsoneault moved the amendments be adopted. The motion carried unanimously. Senator Pinsoneault then moved SB 429 be recommended DO PASS AS AMENDED. Senator Towe asked if the committee wished to address the question of unlawful debts. The motion to recommend the bill DO PASS AS AMENDED carried with Senators Blaylock, Daniels, and Towe voting in opposition.

ACTION ON SB 451: Proposed amendments to SB 451 were distributed to the committee (Exhibit 7). The effect of these amendments is to delete Sections 7, 12, and 14. Senator Galt moved the committee adopt the amendments. The motion carried unanimously. Senator Brown moved SB 451 be recommended DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON SB 449: Proposed amendments to SB 449 were distributed to the committee (Exhibit 8). Senator Towe asked what will happen if the officer picks both parties up and put them both in jail. Another thing that is bothersome to him is he is concerned some wives will learn they can use this as a big club. Senator Blaylock stated he thinks the bill is too broad. Senator Towe stated he likes the idea this bill is trying to get at. Mr. Petesch stated Senator Regan suggested removing the immunity section. He further stated facially this bill is fine, but in reality, all of these arrests are going to be warrantless. The case of Payton v. New York stated warrantless arrests in the home were found to be unconstitutional, so the amendment concerning exigent circumstances was proposed. Senator Blaylock stated there is no doubt that it is a very difficult thing and most of the time it is the woman, but he hates the idea of leaving that on the officer and saying he has to make the decision because there are times when they are both at fault. He thinks what will happen is just what was said: the officer, to protect himself, will arrest both parties. Senator Brown stated it is hard to vote against this bill, but it is not a very good bill. Senator Towe stated the committee could put in the exigent circumstances and cut out the rest of the bill. A complaint along with probable cause to support it from a family member constitutes exigent circumstances for making an arrest. What bothers him more than anything else is it won't take long for the woman to call the police and to get her husband put in jail. Senator Mazurek asked if by statute we can make it presumptive that it is exigent. Mr. Petesch stated if you have a warrant, there is no problem, but if you are making a warrantless arrest in the home, you have to have those exigent circumstances. Senator Towe suggested changing the word "shall" to "may" and putting in the exigent circumstances. Senator Towe moved the amendments attached as Exhibit 8. The

motion carried unanimously. Senator Towe moved the bill be further amended as follows:

Title, line 6.
Following: "OFFENSE;"
Strike: "REQUIRING"
Insert: "AUTHORIZING"

Page 5, lines 6 through 8.
Following: "officer."
Strike: remainder of line 6 through line 8 in their entirety

The motion carried unanimously. Senator Towe moved the bill be further amended as follows:

Page 2, line 11.
Following: "spouse,"
Strike: "adult person related by blood or marriage,"

Senator Mazurek stated that language referred to is the in-law or grand-parent situation. The motion carried unanimously. Senator Towe moved SB 449 be recommended DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON SB 453: Mr. Petesch stated the House committee on the bill which is much broader changed in the criminal provision the intent from willfully to purposely because willfully is not a defined state of mind in Montana. Senator Towe moved the bill be amended as follows:

Page 4, line 19.
Following: "(a)"
Strike: "willfully"
Insert: "purposely"

Page 4, line 22.
Following: "(b)"
Strike: "willfully"
Insert: "purposely"

Page 5, line 6.
Following: "(c)"
Strike: "willfully"
Insert: "purposely"

Page 5, line 11.
Following: "(d)"
Strike: "willfully"
Insert: "purposely"

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 0223

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

Proposed amendments to SB 449

1. Title, line 7.

Following: "ABUSE;"

Strike: remainder of line 7 through "CIRCUMSTANCES;" on line 8

2. Page 2, lines 21 through 24.

Strike: section 2 in its entirety

Renumber: subsequent sections

3. Page 4, line 9.

Following: "member."

Insert: "A summons of a peace officer to the home or private dwelling by a family or household member constitutes an exigent circumstance for making an arrest pursuant to 46-6-401(2)."

4. Page 5, line 6.

Following: "officer."

Insert: "A summons of a peace officer to a place of residence by a family or household member constitutes an exigent circumstance for making an arrest."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 8
DATE 022385
BILL NO. SB 449

STANDING COMMITTEE REPORT

Page 1 of 2

February 23 1985

MR. PRESIDENT

We, your committee on..... JUDICIARY

having had under consideration..... SENATE BILL No. 449

first reading copy (white)
color

CREATES CRIME OF DOMESTIC ABUSE; REQUIRES ARREST FOR ITS VIOLATION

Respectfully report as follows: That..... SENATE BILL No. 449

be amended as follows:

1. Title, line 6.
Following: "OFFENSE;"
Strike: "REQUIRING"
Insert: "AUTHORIZING"

2. Title, lines 7 and 8.
Following: "ABUSE;" on line 7
Strike: remainder of line 7 through "CIRCUMSTANCES;" on line 8

3. Page 2, line 11.
Following: "spouse,"
Strike: "adult person related by blood or marriage,"

4. Page 2, lines 21 through 24.
Strike: section 2 in its entirety
Renumber: subsequent sections

XXXXXX
DO NOT PASS

XXXXXX
DO NOT PASS

CONTINUED

Senator Joe Mazurek

Chairman.

48

Page 2 of 2

SENATE BILL NO. 449

5. Page 4, line 9.

Following: "member."

Insert: "A summons of a peace officer to the home or private dwelling by a family or household member constitutes an exigent circumstance for making an arrest pursuant to 46-6-401(2)."

6. Page 5, line 1.

Following: "officer"

Strike: "shall"

Insert: "may"

7. Page 5, lines 6 through 8.

Following: "officer."

Strike: remainder of line 6 through line 8 in their entirety

Insert: "A summons of a peace officer to a place of residence by a family or household member constitutes an exigent circumstance for making an arrest."

AND AS AMENDED

DO PASS

Senator Joe Mazurek, Chairman

48

(To be kept current -- post bills when entering being heard or leaving committee.)

Form CS-32

STATUS SHEET

FORTY-NINTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

<u>SENATE</u> <u>BILL NO.</u>	<u>ENTERED</u> <u>COMM.</u>	<u>DATE</u> <u>CONSIDERED</u>	<u>OUT OF</u> <u>COMM.</u>	<u>DO PASS</u> <u>DATE</u>	<u>DO NOT</u> <u>PASS</u> <u>DATE</u>	<u>DO PASS</u> <u>AS AMEND.</u> <u>DATE</u>	<u>BE CON-</u> <u>CURRED IN</u> <u>DATE</u>	<u>BE CONC. IN</u> <u>AS AMENDED</u> <u>DATE</u>	<u>BE NOT CON-</u> <u>CURRED IN</u> <u>DATE</u>
SB 392	3/7/85	3/22/85	3/22/85						3/22/85 AS AMENDED
SB 411	3/7/85	3/22/85	3/22/85					3/22/85	
SB 412	3/7/85	3/25/85	3/25/85					3/25/85	
SB 414	3/7/85	3/20/85 3/21/85	3/21/85				3/21/85		
SB 418	3/7/85	3/26/85	3/27/85						3/26/85
SB 421	3/7/85	3/26/85		(Table bill 3/26/85)					
SB 424	3/7/85	3/26/85	3/27/85						3/26/85
SB 433	3/7/85	3/25/85	3/25/85				3/25/85		
SB 435	3/7/85	3/26/85	3/27/85						3/26/85
SB 449	3/7/85	3/21/85 3/28/85	3/28/85					3/28/85	
SB 451	3/7/85	3/25/85	3/25/85					3/25/85	
SB 453	3/7/85	3/21/85 3/27/85	(Tabled 3/27/85)						
SB 105	3/18/85	(re-referred back to committee)				Re-considered 3/19/85 and passed out with BE CONCURRED IN recommendation 3/19/85			
SB 230	3/18/85	(re-refer back to committee)				Re-considered 3/19/85 and passed out with BE CONCURRED IN recommendation 3/19/85			
SB 446	3/23/85	3/27/85 3/28/85	3/28/85					3/28/85	
SB 319	3/25/85	3/28/85	3/28/85				3/28/85		

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 21, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Thursday, March 21, 1985 at 8:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Brown.

CONSIDERATION OF SENATE BILL NO. 332: Senator Tom Towe, District #46, chief sponsor of SB 332, testified. Senator Towe said this bill deals with the access to library records. He said the problem arises when somebody wants to see how many people have checked a particular book out of the library. He said the library people would just as soon not be required to disclose that information. With this bill, they would not have to disclose that particular information. He explained the sections of the bill in fuller detail. He feels that librarians need this type of protection to make sure that when they refuse to disclose this kind of information, they will be supported.

Sara Parker, state librarian, testified as a proponent to this bill. She told the committee that the inquiries range from the very casual inquiries to the more serious inquiries. She feels this bill is needed to protect librarians who refuse to disclose this requested information.

Deborah Schlesinger, legislative chair of the Montana Library Association; Lois Fitzpatrick, director of the Carroll College library and Brenda Schye, representing the Montana Arts Advocacy all testified as proponents to the bill. A copy of Ms. Schlesinger's written testimony was marked Exhibit A and attached.

There being no further proponents or opponents, Senator Towe closed.

The floor was opened to questions from the committee.

Rep. Gould referred to the penalty provision of the bill with regard to attorneys fees and asked if the person who brings the action loses the case, can the defendant collect the attorneys fees? Senator Towe said "no, not in this bill."

Rep. Mercer said that while he is in total agreement of the intent of the bill, will it require the library to completely redo its system? Ms. Parker said the bill is not intended

some of the large scale dealers, they are not getting all of them. Rep. Rapp-Svrcek said that he felt that wire-tapping is very intrusive, and he wanted to Mr. Dunbar to comment accordingly. Mr. Dunbar agrees that wire tapping is intrusive, but he feels there are plenty of safeguards in the bill that would prevent abuse.

Rep. Miles wanted to know the number of incidents that occurred last year that could have been affected by this particular bill. Senator Van Valkenburg said he was aware of three such incidents in the Missoula area. Mr. Hintz said that the number of incidents is increasing monthly in the Missoula area.

Rep. Hannah wanted to know what the number one offense is in Montana if it isn't drug activity. Senator Van Valkenburg said that alcohol is an extremely obvious problem followed by the crime of theft.

Rep. Rapp-Svrcek wanted to know if the proposed amendments will be allowed under the title of the bill. Senator Van Valkenburg answered "yes".

There being no further questions, hearing closed on SB 453.

CONSIDERATION OF SENATE BILL NO. 449: Senator Pat Regan, District #47, chief sponsor of this bill, testified. This is an act defining "domestic abuse" and proving that Commission on Domestic Abuse is a criminal offense. The bill allows that an arrest may be made. Senator Regan pointed out that the bill was originally drafted requiring that an arrest be made. That provision was stricken in the Senate, and she asked the committee to reinsert that stricken language. She said this is not a new concept -- it is used in Washington and Oregon. The last provision of the bill deals with prohibiting a peace officer from accepting bail on behalf of a justice of the peace when a person is arrested for domestic abuse. Senator Regan said the reason for this type of legislation is obvious. A copy of her proposed amendment was marked Exhibit F.

PROPOSERS:

Amy Pfeifer, representing the Women's Law Caucus, testified as a proponent and submitted her written testimony which was marked as Exhibit G and attached hereto.

Marti Adrian, counselor on domestic violence issues, limited her testimony to the portion of the bill that was deleted by the Senate Judiciary Committee which is the mandatory arrest provision. In all the years that she has worked in the domestic violence field, she has never heard of an incident which police arrested in domestic violence on probable cause. She gave some of the specific examples that she has

observed. She said that men tend to treat women as property. She feels that society needs to take a close look at the sanctity of marriage and the right to privacy and further look at who those rights are working for and who they are working against. We need to deal with a women's right to privacy in her own home as well as the man's right to privacy in his home. We need to look at the right of the government to protect women when they are unable to do so. We need to further look at why women must leave their homes when they are victims of domestic abuse. She feels the state has a compelling need to bring suit in these instances. We need a directive law to compel law enforcement to take action in this regard. In closing, she asked the committee to reinstate the mandatory arrest provision of the bill.

Robert Holmes, pastor of the St. Paul United Methodist Church of Helena, testified as a proponent. He said that without the mandatory arrest provision, it would increase the chances of further abuse inflicted upon the women. He urged the committee to restore the mandatory arrest provision of the bill.

Caryl Wickes Borchers, executive director of the Mercy Home Chair, testified in support of the bill. She submitted her written testimony and several other articles pertaining to domestic abuse which was marked Exhibit H and attached hereto.

Nancy Mills from Great Falls read a letter to the committee from a victim of domestic abuse which was marked as Exhibit I and attached hereto.

Julie Ferguson, who testified as a proponent, said this legislation would clearly announce that battering is unacceptable in our society. She feels that in the long run it will keep families together.

Barbara Greene, a person from Bozeman working with battered spouses, urged the committee to reinstate the mandatory provision of the bill. She asked the committee to consider the "spillover" effect as well as the safety of the victim of domestic abuse.

Susan Cottingham, representing the Montana Chapter of the American Civil Liberties Union, said that the union's domestic policy is very clear with regards to women's rights in this particular area. She pointed out that the ACLU opposed the mandatory arrest provision in the Senate, and she further stated that they support the bill in its present form.

Kelly Rosenleaf, director of Safe Space in Butte, testified in favor of the bill. A copy of her written testimony was marked Exhibit J and attached hereto.

52

Rep. Montayne wished to go on record as supporting this bill.

Karen Abbott, an abused wife, submitted written testimony which was marked Exhibit K and attached.

Gail Kline, representing the Women's Lobbyist Fund, testified as a proponent to SB 449 with the mandatory arrest provision. A copy of her written testimony was submitted and marked Exhibit L. She also submitted a letter from the Montana Catholic Conference urging the support of this bill which was marked Exhibit M and attached.

There being no further proponents or opponents, Senator Regan closed. She pointed out that this bill refers to all kinds of spousal abuse. She said this would cover 5% of husbands who are also abused by their spouse.

The floor was opened to questions from the committee.

Rep. Keyser pointed out to Senator Regan that the bill makes only reference to "he". Senator Regan said the gender was meant to be neutral.

There being no additional questions, hearing closed on SB 449.

CONSIDERATION OF SENATE BILL NO. 294: Senator Bruce Crippen, District #45, chief sponsor of SB 294, testified on its behalf. The bill deals with the issue of eliminating the spousal exemption in the criminal offense of sexual intercourse without consent. He pointed out that the Senate added an amendment on page 1, lines 21 through 23 which says "a person may not be convicted under this section based on the age of his spouse as provided in 45-5-501 (2) (C)". Senator Crippen said that the marital rape exclusion as it now stands in Montana law is unconstitutional. It is a violation of not only the equal protection clause of the Montana Constitution but also the federal constitution. He said there is no rational basis for distinguishing between marital rape and non-marital rape. The classification of the statute simply does not support the legislation purpose of protecting all persons from this violent act. He went over some of the background of the theories that led to the establishment of the spousal exclusion. He said that 20 other states have adopted this type of legislation, and research shows that very rarely do women try to take the vindictive approach.

PROPOSERS:

Karen McRae, representing the Women's Place, testified as a proponent to the bill. A copy of her written testimony was marked Exhibit N and attached hereto.

Robert Holmes, pastor of the St. Paul's United Methodist Church in Helena, spoke in favor of the bill. A copy of his testimony was submitted and marked Exhibit O.

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/21/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)		✓	
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Kevser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Raop-Svrcek	✓		

AMENDMENT TO SENATE BILL 449

EXHIBIT F

1. Page 5, line 6.

Following: "~~shall~~"

Strike: "MAY"

Insert: "shall"

2. Page 5, lines 7 and 8.

Following: "if" on line 7

Insert: "evidence available to"

Following: "officer" line 8

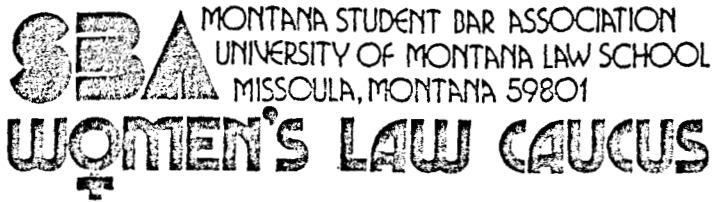
Insert: "is clear that"

Following: "cause"

Insert: "does exist"

The amendment will read as follows On line 5.

(2) A peace officer shall arrest a person anywhere, including his place of residence, if evidence available to the peace officer is clear that probable cause does exist to believe the person is committing or has committed domestic abuse or aggravated assault against a family member or household member, even though the offense did not take place in the presence of the peace officer.



TESTIMONY OF AMY PFEIFER BEFORE THE HOUSE JUDICIARY COMMITTEE, March 21, 1985
ON BEHALF OF SENATE BILL 449

Family violence occurs in this country in staggering proportions. Each year thousands of men, women and children must deal with the tragedy of family violence. Estimates from the U.S. Attorney General's Task Force on Family Violence indicate that family violence is a crime of shocking magnitude. Battery is a major cause of injury to women in America. Nearly a third of female homicide victims are killed by their husbands or boyfriends. Almost 20 percent of all murders involve family relationships.

These intentional, purposeful acts of physical and sexual abuse by one family member against another must be defined and recognized by the criminal justice system as serious criminal offenses. A strong commitment by law enforcement officials, prosecutors, and courts in responding to family violence as a crime can aid in deterring, preventing and reducing violence against family members.

The criminal justice system has responded inconsistently to acts of violence. Violence committed by a stranger is classified as an assault. If a person is apprehended after beating up a stranger, the usual result is an arrest and prosecution for assault and battery. Yet when one family member assaults another, it is commonly viewed as a family squabble, something less than a crime. This disparity in the legal response to assaults must be eliminated. The problem for too long has been viewed as a private matter best resolved by the parties themselves without resort to the legal system. Today, with increasing public awareness of the seriousness and pervasiveness of family violence, there is a growing demand for an effective response from all community agencies, particularly the criminal justice system. An assault is a crime, regardless of the relationship of the parties. A person beaten in the home is no less a victim than the person beaten on the sidewalk in front of the home. The law should not stop at the front door of the

54

family home. An individual's right to privacy in his home is no bar to the arrest of an assaulter. The right of individual privacy is a fundamental constitutional right expressly recognized in the Montana Constitution as essential to the well-being of a free society, but the constitutional guarantee is not absolute and it must be interpreted or construed and applied in light of other constitutional guarantees. It must yield to a compelling state interest which exists where the state enforces its criminal laws for the benefit and protection of other fundamental rights of its citizens. State ex rel. Zander v. District Court, 180 MT 548, 591 P.2d 656 (1979).. The state's compelling interest in enforcing its assault laws justifies arresting an abuser in the home.

Traditional criminal justice practice in family violence cases has been to view an assault as a family disturbance, not requiring arrest. When an arrest does occur, law enforcement officers and prosecutors may fail to acknowledge the seriousness of the offense, believing that the victim will be hesitant to cooperate. Penalties imposed by the court generally do not reflect the severity of the injury or the number of prior convictions for the same offense. This under-enforcement of the law tells victims and assailants alike that family violence is not really a serious crime, if a crime at all. It is this wide-spread perception that has contributed to the perpetuation of violence within the family.

Assaults against family members are not only crimes against the individual but also crimes against the state and the community. Intervention by the criminal justice system can effectively restrain assailants and make them responsible for their violence like any other perpetrator of crime. Arrest by law enforcement officers sends a ~~clear~~ signal to the assailant: abusive behavior is a serious criminal act and will not be condoned or tolerated. Prosecution policies that are not dependent upon a signed complaint from the victim reinforce that message. Courts can confirm it by imposing sanctions commensurate with the crime. Such measures not only have a deterrent effect on the abuser but also provide protection for the victim.

Intervention by the criminal justice system must also recognize and be sensitive to the trauma suffered by the victim. Family violence is a crime occurring in a special context with very different causes, manifestations and effects. Reporting and successful prosecution requires

victim cooperation. To achieve that cooperation after the initial call by the victim, law enforcement officials, prosecutors and judges, not the victim, must proceed with and monitor the criminal justice process. This not only reinforces the notion that abuse is a serious criminal act but also provides the victim the support necessary to participate in the criminal justice process.

The response of the criminal justice system, punishing the offender and protecting the victim, is a critical element of a community effort to reduce family violence. The response must be decisive and expeditious and, most importantly, guided by the nature of the abusive act and not the relationship of the victim and abuser.

During the sixties, police trainers relied on the literature of psychologists and social scientists who believed that arrest was inappropriate because it exacerbated the violence, broke up families, and caused the abuser to lose his job. Consequently, mediation was the preferable solution to most family violence incidents. Rather than emphasize the victim's right to safety and protection against future assaults, the mediation model moved away from law enforcement into social services. As a result, law enforcement officers have generally attempted to resolve incidents of family violence through the expeditious techniques of sending one party away from the home or superficially mediating the dispute. A recent study by the Police Foundation indicated that reincidence of violence is less likely if the police arrest an abuser than if they separate the parties or mediate the "dispute". The Police Foundation study focused on whether police should use law enforcement procedures or social work techniques in responding to disturbance calls. It was designed to determine, through an experiment using real cases, whether arrest, informal mediation, or temporary separation of the parties was most effective in deterring subsequent assault.

The participating officers were divided into three groups. Each officer responded to a sample of actual wife abuse cases according to the instructions the officer's group had been given. One-third of the officers made arrests, one-third separated the parties, and one-third mediated the disputes.

A six-month follow-up study found that there had been a recurrence of violence in 24% of the cases in which the police had separated the parties for eight hours, a 17% recurrence in cases which were mediated, and only a 10% reincidence of violence in cases in which an arrest was made.

48

The study revealed the dramatic deterrent effect of arrest on domestic abuse compared to the effect of other, more common, police responses to abuse cases. It is hoped that the Police Foundation study will lead to a major shift in police policy away from mediation and toward more traditional law enforcement.

Subdivision (4) of M.C.A. § 46-6-401, Circumstances in which a peace officer may make an arrest, was enacted in 1967 to provide for felony and misdemeanor arrest without an arrest warrant. The scope of the arrest power was broadened to allow for an arrest without a warrant when the peace officer believes on reasonable grounds that a person is committing an offense or that a person has committed an offense. In 1968 an amendment was made pursuant to a Supreme Court order which added to subsection (4) the requirement that "existing circumstances require his immediate arrest." As the Montana Criminal Law Commission's comments note, "before the addition of subsection (4), the officer (was) often handicapped by being unable to arrest for a past misdemeanor not committed in his presence, e.g., a family squabble or traffic infraction."

Montana Code Annotated § 46-6-401, subsection (4) was enacted to allow peace officers to arrest for domestic abuse which did not occur in their presence. This was almost 18 years ago. The addition of subsection (4) and the Supreme Court's amendment to it have obviously not gone far enough in addressing the serious problem of domestic abuse.

In 1977 the state of Oregon chose mandatory arrest as the best means to reduce recurring domestic violence. According to Oregon Revised Statutes § 133.055, subsection 2 & 3, a police officer, upon probable cause that a domestic assault has occurred or that serious physical injury is threatened must arrest the assailant. After the enactment of the Oregon Abuse Prevention Act, including the mandatory arrest provision, nondomestic homicides in Oregon showed a 10% increase while domestic homicides during the same period showed a 10% decrease.

The state of Washington, too, has chosen mandatory arrest as its response to the serious problem of domestic violence. Revised Code of Washington § 10.99.030, subsection (3)a) provides: "When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise (his) arrest powers" The officer also has a duty,

under this section, to notify the victim of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available.

The Women's Law Caucus believes it is time for Montana to follow Oregon and Washington's lead in adopting mandatory arrest as the preferred response to domestic violence. This bill is essential to break the cycle of domestic violence. It is necessary to give the victim support so that she will participate in the system. The burden should not be on her shoulders. We support Senate Bill 449 as necessary to send a broad, clear signal that domestic abuse is a crime and will not be tolerated by the people of Montana.

February 20, 1985

EXHIBIT H
3/21/85
SB 449

Capitol Station
Helena, Montana 59601

Dear Legislators,

I am the Legislative Representative from the MONTANA COALITION AGAINST DOMESTIC VIOLENCE and we are urging you to support Senate Bill 449 (REQUIRING ARREST LAW).

Before Richard Gelles, Maury Strauss, Susan Steinmetz, and Dr. Lenore Walker started to do in-depth research on FAMILY VIOLENCE and the DYNAMICS OF ABUSIVE RELATIONSHIPS, the Sociologists and Psychologists were saying to Law Enforcement who were dealing with Family Violence, "Let's just mediate and send the Abuser around the block for a walk;" or the Law Enforcement would say, "we will not get involved in Domestic Problems." Later, we found through RESEARCH that in PHASE 2 of the BATTERING CYCLE-- the Abuser is in pure RAGE. A WALK AROUND THE BLOCK will not be a long enough "COOLING OFF" period. Instead, an enforced separation of the victim and assailant is often necessary to permit the passions on all sides to subside and to take the reasonable steps necessary to end the violence and prevent future abuse.

To ensure the safety of the victim and provide just and fair treatment of the assailant, the rights of both parties must be equally considered and balanced. When considering release or setting bail, judges must carefully assess the dangerousness of the abuser's behaviour and the likelihood that the violence will continue. When that probability is great, overnight incarceration of the abuser may prove to be an effective means to prevent the continuation of violence. Not only will this reasonable cooling-off period provide immediate protection for the victim, but the assailant will more likely recognize the serious criminal nature of violence within the family. Also, important service and treatment contacts and referrals can be made for both the victim (see enclosed card the Law Enforcement uses in Gt. Falls, and we are currently making up another information card.) The referral for the Abuser can be to counseling such as 'The Alternativesto Violent Behaviour Group' at the Mental Health in Gt. Falls.

I have worked with over 4,000 Abused Women and Children, and many of them have related to me such stories as the following:

- Last Saturday morning (Feb.16/85) in a small town outside of Gt. Falls, a client of mine was threatened he would kill her and he left to go get his gun out of his car. His son told him, "If you kill mom, I'll have to kill you."
This is the second time that the son has had to say this to his father.
The client told me that he threatened to "Drop the Sheriff" if she called him.
- the client who he took out on a lonely road and shot at her, missing her and hitting the car engine. Another time she ran out of the house and he fired a shot and hit the house next door. When the Police were called, they suggested she move and get out of town. She asked, "Don't I have any rights?" Why, do I have to always be the one to leave?" They also did nothing to the Abuser.
- My client who had moved to Great Falls with her three children and after she paid the rent and got settled, her husband showed up and threatened to "Beat her to death." When the Police came they told her they couldn't do anything-- It was a family matter."

A lack of understanding of the nature of FAMILY VIOLENCE encourages others not directly involved to keep the cloak of SILENCE in place. The LEGISLATIVE, JUDICIAL, LAW ENFORCEMENT and MONTANA COALITION AGAINST DOMESTIC VIOLENCE and SERVICE PROVIDERS will have to use their creative minds to 'BREAK THE CYCLE OF VIOLENCE' in MONTANA as we have before in the last 4 Legislatures. This includes EDUCATING the PUBLIC about: 1) The CRIMINAL nature of family violence; 2) The Human and Economic Costs of Family Violence; Information on local resources for victims; 4 and Methods of preventing Family Violence.

Sincerely yours,

Caryl Wickes Borchers
Caryl Wickes Borchers, Executive Director Mercy Home
Capitol State Park, Helena, Montana

RE: MANDATORY ARREST

Dear Legislators:

I am writing on behalf of many women in Montana who have been, are, or will be victims in a battering relationship. I speak from personal experience as I married a man who was extremely violent. This letter is graphic simply because generalities don't give one a clear picture of what really goes on in a relationship where the husband is a batterer.

I came from a good christian home where as a minister, my father, along with my mother, taught my sisters and I to be kind, loving, and empathetic toward the needs of others. In contrast to my husband's childhood of physical abuse, violence on the streets, and scraping for himself, my childhood was based on love, comfort, security, and a firm hand of correction where needed. So what I went through for the next two years was ~~totally~~ foreign to me.

After obtaining a college degree, I returned to the city where my parents resided. While there, I met and married a man who was kind, helpful, loving, and cared for me. His flip side was that of extreme jealousy, possessiveness, uncontrollable outbursts of violence, an obsession with knives, an alcohol problem, and severe beatings, even when I was pregnant. On one occasion when I was going to leave him, he took me for a ride in our car and got a gun and said he was going to kill himself if I left him. I wonder if he planned to shoot me, too. I don't know. During another incident, as if it was premeditated, he made me pack our baby's belongings, then tied me up, gagged me, beat me, and told me he was going to kill me and leave with our 2½ month old baby. The list of violent incidents goes on.

After living through a year of marriage in this hell, I left him and was separated for a month. I lived in Great Falls but went to Kalispell while my parents were on vacation. Upon our arrival back to Great Falls, my husband wanted to see the baby. Since I had had several conversations with him during our separation during which he said he had changed as the result of a religious revival in his life, I trusted him. So my father dropped me off at the house while he went to visit one of his elders for a short time. My husband tried to get me to leave the house with him to go for a ride, and upon my refusing, he went into a rage. He pulled a long knife from the kitchen drawer and informed me that I was going with him. I talked him into throwing the knife down and after pulling the phone cord out of the wall, he started dragging me out the door. I started to scream because I knew it was my only chance (he had on several occasions told me he was going to take me to a remote area someday and kill me). He threatened to knock me out if I didn't be quiet, and next tried to force me into the car. Then something snapped in him, and he quit, just like that. I ran to a neighbor that I noticed was watching the incident and told him what had happened and that my husband was going to take the baby. Upon being informed by my neighbor that my husband was a "nice" guy and wouldn't do such a thing, my husband then grabbed the baby from me and ran to the car and left. As it turned out, he went around the block, brought the baby back to me and said he couldn't separate us. He just wanted money to get out of town. A police officer arrived, and I went to a neighbor's house to call my father who came right over. Dad, who thought I should press charges, talked to the officer. The officer was very reluctant to get involved because it was a domestic situation, and said the authorities can't really do much unless I am divorced. He also indicated my husband could go to jail that night and get out on bail the next day. Then he stated it was all over for that night and to "let a sleeping dog lie." I also didn't want to be responsible for sending him to jail because I figured if he was going to go to jail, he was going to put himself there as I didn't want him coming after me when he got out. After a few more minutes (by this time my husband has disappeared) the officer said,

12

Mandatory Arrest
Page 2

"Well, I'd better get back to work." What did he think he had been doing for the past 45 minutes? So when he left, we had no idea where my husband was. We were just about to leave when he came out of the park from across the street. He started coming at my dad with a look of rage in his eyes but stopped only after my father yelled for someone to call the police.

The next day, my husband was on a plane to the city where we used to live. I divorced him, and before it was even finalized, he almost killed a guy with a hammer and was sent to prison in that state for a couple of years. He got out on parole last May and is now in California. It's only a matter of time before he victimizes someone else.

Had there been a mandatory arrest law during these incidents, the course of his violence could have been altered. The pressure of having one's husband arrested should not lie on the shoulders of the wife but on that of the officer who answers the call for help. He is the one with the authority and training to handle situations such as this, especially since my husband no longer had a weapon when the officer arrived. These batterers need to take responsibility for their own actions and be headed in the direction of extensive psychiatric counseling.

What needs to be prevented are the beatings and homicides that are so prevalent in our society. Let's put these actions on the criminal's side where they belong. It is crucial that they be ordered out of the house and placed in jail for a "24 hour cooling off period" where they can evaluate their actions and criminal behavior.

Thank you for your consideration.

Melinda

February 1985

Dear Legislators,

A mandatory arrest law would help battered women, particularly those in cases similar to mine. Under this law, if there is evidence of abuse, law enforcement agencies would be able to arrest the offender and incarcerate for 24 hours.

I am a battered wife! Knowing that as long as the officers (if they show up) are on the premises, the batterer will settle down, but as soon as the officers leave, the batterer continues his rage on the victim. At this point, the law's hands are tied.

I have gone to the shelter several times. I was not able to return to my own home, as my (now) ex-husband continued to remain in it, running up staggering bills which I was responsible for, since I own the home. Being a woman and a mother, the stress factor has been very bad for my health, and so seeking employment to help with the bills has been impossible.

It will take several years to overcome the financial and emotional abuse I was under. The laws for protecting women and children in abusive situations should be seriously looked into. This is a crime that has been hidden for centuries, and is now coming into light. Often, the battering disappears temporarily, only to return, even worse; all battered women are aware of this. More legislation is required to provide protection from these abusers.

Thank you

Carolyn

February 15, 1985

Dear Legislators:

I'm writing this letter to you to request your support in regards to the "Mandatory Arrest Law" which would provide immediate action in arresting abusers.

I recently went through a divorce which ultimately brought to light the abusive situation I had been living under for many years. To understand "my story", you must realize my ex-husband is a very egotistical, irresponsible person who is also very manipulative and domineering. This was "learned behavior".

Immediately after the divorce, my life was threatened several times and ways, and through my minister, I sought help from the Mercy Home and Caryl Borchers. His next tactics included suicide threats, numerous statements involving friends and relatives and my employers and additional threats on my life.

Several weeks after the divorce at approximately 2:15 A.M., I alarmingly awoke to a noise downstairs, turned on my light and was faced with him charging up the stairs carrying a loaded shotgun. During the next two hours, my phone was ripped off the wall so I could not call for help and I was sexually abused. As soon as I was free to get to my neighbors house, the police were there within minutes; by that time, of course, he was gone. Even though I told the police I would press charges, it took seven days for the arrest orders to be processed through the city courts, and by that time, he had "confessed" to what he had done, sought professional mental help for 2-3 days, and appeared in court where they "slapped his hands" and told him to leave me alone. Therefore, any charges I had pressed were dropped.

In addition to the above, it took better than three weeks to get a permanent restraining order processed and served on this person. In the meantime, I felt my life was very much in danger, and the constant fear I lived with was devastating. I try to live a good Christian life, but there's only so much a person can tolerate and I firmly believe that no person has the right to abuse another person by such actions.

I feel the worst part is behind me and each day is better than the last. My concern now is for the many abused people in our society today who do not have the strong support of family and friends, and Caryl Borchers and the rest of the Mercy Home Personnel as I did. Abused people, whether they be men, women or children, need better protection, immediate action by our law enforcement, and concerned citizens to come to their aid.

I strongly urge you to support the "Mandatory Arrest Law" and House Bill 310, "self help restraining order".

Sincerely,


Janet

February 20, 1984

Dear Legislators,

Please support the Mandatory Arrest SB #449!

I was a victim of domestic violence! I never called the police when my spouse was taking out his frustrations on me by slamming me up against a wall, choking me, punching me in the face or stomach, or kicking me, as I knew when they (the police) came he would NOT be arrested and he would then have killed me and my children.

Had they arrested him and kept him in jail for 24 hours he would have had a long enough cooling off time that when he returned he would not have continued the violent behavior. Plus he would have begun to realize that he no longer could continue this type of behavior without serious consequences. As it was he knew no one would do anything about his behavior, therefore, it was acceptable for him to be abusive to me and my children. He never believed he had a problem and the only one who told him that he did was me, which brought about more beatings.

I firmly believe that we as a society need to make a positive statement that violence in the home is NOT acceptable. I can't think of a better way to make that statement than to arrest the person who is assaulting his spouse and place the responsibility for this crime on him rather than on the victim.

Thank you for your anticipated support!

Sincerely,

Nancy

re: Mandatory Arrest

Dear Legislator,

I am currently working in a shelter for battered women and their children. I strongly request your adoption of the Mandatory Arrest Bill.

Through my work with battered women I have seen how detrimental the lack of arrest has been. An abused woman will often call the police for help during phase 2 of the cycle, or the 'Acute Battering Incident' phase. The victims are often too afraid to press charges against their batterers for fear of intensified beatings or threats of death from their attackers.

One of the women that I have worked with, Sandra, called the police out of desperation after being beaten by her husband. When the police arrived Sandra ran out to the driveway to meet them, and explained the beating to the officers. The officers asked the man to leave the house for a few hours, a 'cooling off period'. The man told the officers that he merely wanted the house key because he was afraid that Sandra would lock him out of the house. The officers had her give him the key, gave the man a 'slap on the wrist' and told him to leave her alone.

When the police left the man was even angrier at Sandra for calling the police than he was in the beginning. At this point the man and Sandra's 14 year old son (learned behavior) took Sandra inside the house, handcuffed her hands behind her back, and together they :
---beat her.

Had this man been immediately arrested not only would his temper have cooled, but Sandra would have had time to escape to safety, and the police would have reinforced in the man the fact that what he did was an assault and against the law.

The Minneapolis Domestic Violence Experiment by Lawrence W. Sherman and Richard A. Berk, as written in the Police Foundation Reports was conducted to determine how police should respond to domestic violence calls. The study found that;

arrest was the most effective of three standard methods police use to reduce domestic violence.

re: Mandatory Arrest

The other police methods - attempting to counsel both parties or sending assailants away from home for several hours - were found to be considerably less effective in deterring future violence in the cases examined.

I urge you to accept the Mandatory Arrest Bill and to place the punishment of an assault on the batterer, not the victim.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet".

Janet

February 1965

Dear Legislators,

This piece of testimony has been prepared to urge your support of Senate Bill 449. As a volunteer counselor at a shelter for battered women and their children, I have dealt with the victims of such violence, women and children who have had to leave their homes as the only means of escape from their batterers.

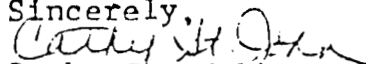
However, our shelters mainly address the situation of the victim, educating her and her children about the cycle of abuse, and telling them that this is not normal behavior--it is learned behavior that must and can be "un-learned!"

What is just as important, but more difficult to do, is to contact the abuser and tell him the same--that this behavior is not normal and is criminal. Under the legislation proposed in this session, such contact could be made through overnight incarceration of the offender, as well as any longer-term incarceration that could occur as a result. Currently, the length of time for which a domestic violence offender is incarcerated, is usually very short, if at all. In this proposed method of dealing with domestic violence, the seriousness of the offense would be realized, and referral could then be made to various agencies, therapists or centers that could assist the person in restructuring their behavior. Through treatment, the family situation has a better chance, and calls for police intervention may no longer be needed. What we are doing under our current, lenient laws, is enabling this behavior to continue, and subjecting our police officers to repeated visits to particular families.

In the recently published Attorney General's Task Force Report On Domestic Violence, it is recommended that legislation, such as mandatory arrest and warrantless arrest, be enacted to deal with domestic violence. One opposing opinion has been presented to our proposals--that these and similar legislation would violate family privacy. In instances of domestic violence, where the matter cannot be settled among the parties because of its high emotional content, any individual should be able to turn to the law for protection, and receive that protection.

It is not the intent of our proposed legislation, nor that of battered women shelters, to split the family. Rather, these are effective means for treating the problem of domestic violence, from the standpoint of both victim and, with revised legislation, offender as well. In these ways, we can draw society's attention to the seriousness of domestic violence, and continue to improve methods of prevention and treatment.

Your support, please.

Sincerely,

Cathy St. John

February 21, 1985

Dear Legislators:

When you love someone and are so afraid of the same person your emotions are torn. I was a victim of a violent marriage. My children were victims and in many ways still are victims even though we have since fled the violent man we knew as a husband and father.

I came from a very loving and gentle background. My parents never displayed anger or so much as spoke harshly to one another. I was always loved and loving deeply was easy for me.

When I married I felt I married the most wonderful man alive. I soon learned the sweet, kind, loving man I married had another side. He became violent and angry. He pushed and shoved. He made threats often. The first real fear he instilled in me was while I was pregnant with our first child. He hit me so hard he busted my lip and bruised my mouth. I ran for the phone to call for help from his parents and he tore the phone out of the wall. He was afraid I was calling the police. Instead I was only going to call his father. Over the years many times I did call his father because I was too afraid to call the police. I knew he would only have been released right away and then what would he have done to me?

After 8½ year of fear, because I never knew what would trigger his anger, I took my children and ran for safety. He had torn up our home in a fit of rage and threatened suicide in front of the children. This was a man I didn't even know any longer. He lost control completely. Yet the fear he caused always made me even further afraid to call for help from the police. If there could have been the promise of his not coming immediately home to "really get even" I'm sure I could have made the call - but there wasn't.

After I left, my husband threatened my life and to take the children and run with them. I went to the police and all they could do was suggest I seek shelter in a home, because in civil matters it is very difficult to get involved. Everything seems to be "after the fact". I am thankful there was such a home for my children and myself to go to, but what of women who have no readily available shelter? If they call the police and their spouse is taken into custody what happens when he is released two hours later? There is a potentially violent person who is even more angry after the humiliation of being removed. If there were a 24 hour period where the abused or threatened woman could know she was safe she could make arrangements for herself and children. They need time - without it there is possibly a time bomb being released and ready to explode; and he won't blame himself for the situation but rather the wife for having put him into his embarrassing situation. Most men who abuse don't ever let others see this violent side of himself. Only his wife knows the extent of his cruelties. She needs a chance to make a choice. He needs time to cool down. If he knows he can't get away with abusing he'll stop and think first. If my husband would have realized that by abusing me he could have been held for 24 hours maybe he wouldn't have been so

20

page 2

quick to hurt me. And if I would have known I had 24 hours to decide where to go for help maybe my children and I wouldn't have had to flee our home with only the clothes on our backs.

Please take into consideration what a help the manditory 24 hours holding time would be to women who are in a desparate and frightening situation.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Mary', written in dark ink.

Mary

The Minneapolis Domestic Violence Experiment

By LAWRENCE W. SHERMAN and RICHARD A. BERK

Under a grant from the National Institute of Justice, the Minneapolis Police Department and the Police Foundation conducted an experiment from early 1981 to mid-1982 testing police responses to domestic violence. A technical report of the experiment can be found in the April 1984 issue of the *American Sociological Review*. This report summarizes the results and implications of the experiment. It also shows how the experiment was designed and conducted so the reader may understand and judge the findings.

Findings in Brief

The Minneapolis domestic violence experiment was the first scientifically controlled test of the effects of arrest for any crime. It found that arrest was the most effective of three standard methods police use to reduce domestic violence. The other police methods—attempting to counsel both parties or sending assailants away from home for several hours—were found to be considerably less effective in deterring future violence in the cases examined. These were not life-threatening cases, but

When I was a young police officer in Oakland, California, nothing perplexed or concerned me more than dealing with domestic assault cases, the staple and bane of every patrol officer's work life. I sensed that my colleagues and I were not doing enough to deter future violence. We had little guarantee that when we left the scene of a violent domestic assault, it would not recur. But, frankly, like other police officers, we did not know what we could do to prevent new eruptions of violence in domestic settings.

I believe the nation's almost half million police officers are tired of responding with the same old non-effective prescriptions to the plight of the battered victims who get caught up in domestic fights. So when I was appointed director of the National Institute of Justice, I was determined to help find the answer to what the police could do to deter domestic violence. The job of NIJ is to get practical answers to important, policy relevant problems such as this one.

The answer, as this report documents, appears to be that the police should use arrests quite frequently in typical domestic violence cases if they want to reduce assaults. More research, of course, is needed before we can say that only arrest should be used in cases of domestic assault. But the Minneapolis research is very useful in guiding our way.

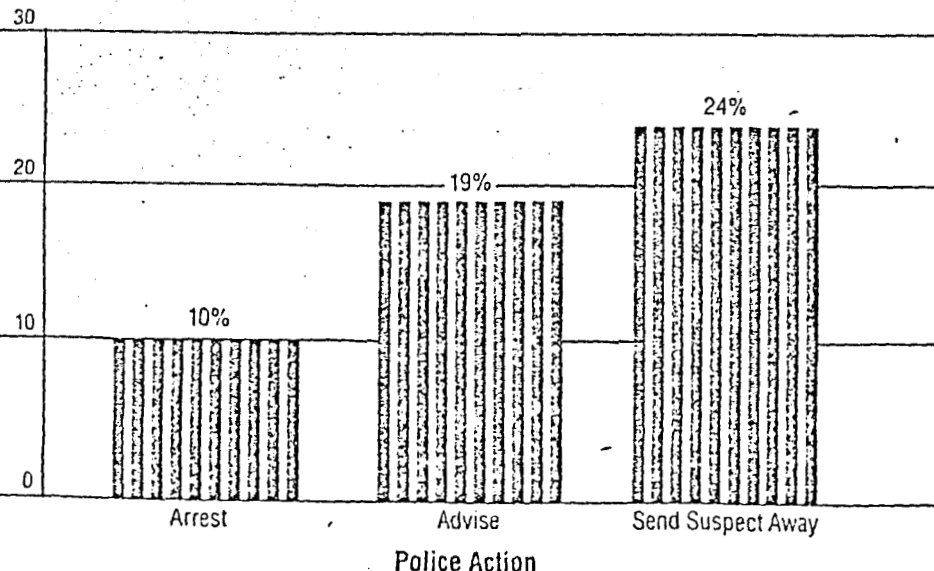
How the research was obtained is a landmark in policing about which readers should know. For the first time in the history of police research, a police department permitted experimentation with officers' responses to a situation involving a specific offense. As this report notes, to permit the experiment to happen, the responses were determined through a lottery method. In that way, the three typical police responses to domestic violence calls received a fair test. The Minneapolis Police Department deserves immense credit for being the laboratory in which we could gain, in the most effective way possible, important new information about a common, serious police problem.

James K. Stewart
Director, National Institute of Justice

Figure 1 Percentage of Repeat Violence Over Six Months For Each Police Action:

OFFICIAL RECORDS N = 314

Percent of Suspects Repeating Violence



rather the minor assaults which make up the bulk of police calls to domestic violence.

The findings, standing alone as the result of one experiment, do not necessarily imply that all suspected assailants in domestic violence incidents should be arrested. Other experiments in other settings are needed to learn more. But the preponderance of evidence in the Minneapolis study strongly suggests that the police should use arrest in most domestic violence cases.

Why the Experiment Was Conducted

The purpose of the experiment was to address an intense debate about how police should respond to misdemeanors, cases of domestic violence. At least three viewpoints can be identified in this debate:

1 The traditional police approach of doing as little as possible, on the premise that offenders will not be punished by the courts even if they are arrested, and that the problems are basically not solvable.

2 The clinical psychologists' recommendations that police actively mediate or arbitrate disputes underlying the violence, restoring peace but not making any arrests.

3 The approach recommended by many women's groups and the Police Executive Research Forum (Loving, 1980) of treating the violence as a criminal offense subject to arrest.

If the purpose of police responses to domestic violence calls is to reduce the likelihood of that violence recurring, the question is which of these approaches is more effective than the others?

AUTHORS

Lawrence W. Sherman is vice president for research for the Police Foundation and associate professor of criminology at the University of Maryland.

Richard A. Berk is professor of sociology at the University of California at Santa Barbara and director of the Social Process Research Institute.

Policing Domestic Assaults

Police have been typically reluctant to make arrests for domestic violence (Berk and Loseke, 1981), as well as for a wide range of other kinds of offenses, unless a victim demands an arrest, a suspect insults an officer, or other factors are present (Sherman, 1980). Parnas' (1972) observations of the Chicago police found four categories of police action in these situations: negotiating or otherwise "talking out" the dispute; threatening the disputants and then leaving; asking one of the parties to leave the premises, or, very rarely, making an arrest.

Similar patterns are found in many other cities. Surveys of battered women who tried to have their domestic assailants arrested report that arrest occurred in only ten percent (Roy, 1977:35) or three percent (see Langley and Levy, 1977:219) of the cases. Surveys of police agencies in Illinois (Illinois Law Enforcement Commission, 1978) and New York (Office of the Minority Leader, 1978) found explicit policies against arrest in the majority of the agencies surveyed. Despite the fact that violence is reported to be present in one-third (Bard and Zacker, 1974) to two-thirds (Black, 1980) of all domestic disturbances police respond to, police department data show arrests in only five percent of those disturbances in Oakland (Hart, n.d., cited in Meyer and Lorimer, 1977:21), six percent of those disturbances in a Colorado city (Patrick, Ellis, and Hoffmeister, n.d., cited in Meyer and Lorimer, 1977:21), and six percent in Los Angeles County (Emerson, 1979).

The best available evidence on the frequency of arrest is the observations from the Black and Reiss study of Boston, Washington, and Chicago police in 1966 (Black, 1980:182). Police responding to disputes in those cities made arrests in 27 percent of violent felonies and 17 percent of the violent misdemeanors. Among married couples (Black, 1980:158), they made arrests in 26 percent of the cases, but tried to remove one of the parties in 38 percent of the cases.

The apparent preference of many police for separating the parties rather than arresting the offender has been attacked from two directions over the past 15 years. The original critique came from clinical psychologists who agreed that police

should rarely make arrests (Potter, 1946; Fagin, 1978: 123-124) in domestic assault cases and argued that police should mediate the disputes responsible for the violence. A highly publicized "action project teaching police special counseling skills for family crisis intervention" (Bard, 1970) failed to show a reduction in violence, but was interpreted as a success nonetheless. By 1977, a national survey of police agencies with 100 officers found that over 70 percent reported a family crisis intervention program in operation. Although it is not clear whether these programs reduced separation and increased mediation, a decline in arrests was noted for some cities (e.g., *et al.*, 1976). Indeed, many sought explicitly to reduce the number of arrests (University of Rochester, 1974; Ketter, 1978; Kravitz, 1978).

By the mid-1970s, police practices were criticized from the opposite direction by feminist groups. Just as psychologists succeeded in having many police agencies respond to domestic violence as "half social work and half police work," feminists began to argue that police put too much emphasis on the social work aspect and not enough on the criminal (Langley and Levy, 1977:218). Widely publicized suits in New York and Oakland sought to compel police to make arrests in every case of domestic assault, and state legislatures were lobbied successfully to relax the evidentiary requirements needed for police to make arrests for misdemeanor domestic assaults. Some legislatures are now considering statutes requiring police to make arrests in these cases.

The feminist critique was bolstered by a study (Police Foundation, 1976) showing that for 85 percent of a sample of spouse killings, police had intervened at least once in the preceding two years. In 54 percent of those homicides, police intervened five or more times. But it was impossible to determine from the data whether making more or fewer arrests would have reduced the homicide rate.

How the Experiment Was Designed

In order to find which police approach was most effective in deterring family domestic violence, the Police Foundation and the Minneapolis Police Department agreed to conduct a classic experiment.

A classic experiment is a research design that allows scientists to discover the effects of one thing on another by holding constant all other possible causes of those effects. The design of the experiment called for a lottery selection, which ensured that there would be no difference among the three groups of suspects receiving the different police responses (Cook and Campbell, 1979). The lottery determined which of the three responses police officers would use on each suspect in a domestic assault case. According to the lottery, a suspect would be arrested, or sent from the scene of the assault for eight hours, or given some form of advice, which could include mediation at an officer's discretion. In the language of the experiment, these responses were called the arrest, send, and advise treatments. The design called for a six-month follow-up period to measure the frequency and seriousness of any future domestic violence in all cases in which the police intervened.

The design applied only to simple (misdemeanor) domestic assaults, where both the suspect and the victim were present when the police arrived. Thus, the experiment included only those cases in which police were empowered, but not required, to make arrests under a recently liberalized Minnesota state law. The police officer must have probable cause to believe that a cohabitant or spouse had assaulted the victim within the past four hours. Police need not have witnessed the assault. Cases of life-threatening or severe injury, usually labeled as a felony (aggravated assault), were excluded from the design.

The design called for each officer to carry a pad of report forms, color coded for the three different police responses. Each time the officers encountered a situation that fit the experiment's criteria, they were to take whatever action was indicated by the report form on the top of the pad. The forms were numbered and arranged for each officer in an order determined by the lottery. The consistency of the lottery assignment was to be monitored by research staff observers riding on patrol for a sample of evenings.

After a police action was taken at the scene of a domestic violence incident, the officer was to fill out a brief report and give it to the research staff for follow-up.

As a further check on the lottery process, the staff logged in the reports in the order in which they were received and made sure that the sequence corresponded to the original assignment of responses.

Anticipating something of the background of victims in the experiment, a predominantly minority, female research staff was employed to contact the victims for a detailed, face-to-face interview, to be followed by telephone follow-up interviews every two weeks for 24 weeks. The interviews were designed primarily to measure the frequency and seriousness of victimizations caused by a suspect after police intervention. The research staff also collected criminal justice reports that mentioned suspect's names during the six-month follow-up period.

Conduct of the Experiment

As is common in field experiments, the actual research process in Minneapolis suffered some slippage from the original plan. This section recounts the difficulties encountered in conducting the experiment. None of these difficulties, however, proved finally detrimental to the experiment's validity.

In order to gather data as quickly as possible, the experiment was originally located in two of Minneapolis's four precincts, those with the highest density of domestic violence crime reports and arrests. The 34 officers assigned to those areas were invited to a three-day planning meeting and asked to participate in the study for one year. All but one agreed. The conference also produced a draft order for Chief Anthony Bouza's signature specifying the rules of the experiment. These rules created several new situations to be excluded from the experiment, including whether a suspect attempted to assault police officers, a victim persistently demanded an arrest, or both parties were injured. These additional exceptions allowed for the possibility that the lottery process would be violated more for the separation and mediation treatments than for the arrest treatment. However, a statistical analysis showed that these changes posed no threat to the validity of the experiment's findings.

The experiment began on March 17, 1981. The expectation was that it would take about one year to produce about

No call for service is more familiar, challenging, and personally disheartening to a police officer than the summons to a domestic assault. Once again, two people living together are engaged in physical violence; once again, there are bruises, blood and, perhaps, broken bones; once again there has been an assault, and the officer fears that worse might occur. Often, terrified children witness the battle and pick up an early lesson that violence is somehow an appropriate way of dealing with problems and frustrations.

What does the officer do?

The common police tradition has been to do little. Physical violence within the home was thought to be exempt from the same laws which keep acquaintances or strangers from assaulting each other on the streets. The battered partner in the typical domestic fight was unlikely to sign a complaint, the officer learned from experience. The problems which caused the violence were probably chronic and unsolvable. So the officer restores a semblance of order, warns the assailant to behave, perhaps sends him out of the home, and goes on to the next call.

However, an increasing public awareness of the toll of domestic violence—of its injury to women, as a harbinger of possible homicide, and for its damaging psychological effects on children—has called into question the traditional police response of doing little or nothing when they intervene. But on what could the police rely if they sought to change their response to domestic violence? Hunch, supposition, tradition had been their guides and they seemed insufficient.

So the Police Foundation, through scientific inquiry, sought to supplant tradition with fact in resolving the question: How can the police deter future domestic violence?

The answer to the question and how it was obtained are in this report which I urge the police, policy makers, government officers, and concerned citizens to read and consider. Domestic violence, along with child abuse, is the quiet criminal plague of American life and must be curbed. I believe the Minneapolis experiment makes substantial progress in suggesting how the police can deter such violence.

Patrick V. Murphy
President, Police Foundation

300 cases. In fact, the experiment ran until August 1, 1982, and produced 314 case reports. The officers agreed to meet monthly with Lawrence W. Sherman, the project director, and Nancy Wester, the project manager. By the third or fourth month, two facts became clear: Only about 15 to 20 officers either were coming to meetings or turning in cases and the rate at which the cases were turned in would make it difficult to complete the project in one year. By November, it was decided to recruit more officers in order to obtain cases more rapidly. Eighteen additional officers joined the project. But like the original group, most of these officers turned in only one or two cases. Indeed, three of the original officers produced almost 28 percent of the cases, in part because they worked a particularly violent beat and in part because they had a greater commitment to the study. A statistical analysis showed that the effects of police actions did not vary according to which officer was involved. Since the lottery was by officer, this condition created no validity problem for the cases in the study.

There is little doubt that many of the officers occasionally failed to follow fully the experimental design. Some of the failures were due to forgetfulness, such as leaving report pads at home or at the police station. Other failures derived from misunderstanding about whether the experiment applied in certain situations; application of experimental rules under complex circumstances was sometimes confusing. Finally, there were occasional situations that were simply not covered by experimental rules.

Whether any officer intentionally subverted the design is unclear. The plan to monitor the lottery process with ride-along observers broke down because of the unexpectedly low frequency of cases meeting the experimental criteria. Observers had to ride for many weeks before they observed an officer apply one of the treatments. An attempt was made to solve this problem with "chase alongs," in which observers rode in their own car with a portable police radio and drove to the scene of any domestic call dispatched to any officer in the precinct. Even this method failed.

Thus, the possibility existed that police officers, anticipating from the dispatch

Table 1
Designed and Delivered Police Treatments in Domestic Assault Cases

Designed Treatment	Delivered Treatment			
	Arrest	Advise	Separate	
ARREST	98.9% N=91	0.0% N=0	1.1% N=1	29.3% N=92
ADVISE	17.6% N=19	77.8% N=84	4.6% N=5	34.4% N=108
SEPARATE	22.8% N=26	4.4% N=5	72.8% N=83	36.3% N=114
TOTAL	43.3% N=136	28.3% N=89	28.3% N=89	100% N=314

call a particular kind of incident and finding the upcoming experimental treatment inappropriate, may have occasionally decided to ignore the experiment. In effect, they may have chosen to exclude certain cases in violation of the experimental design. Such action would have biased the selection of the experiment's sample of cases, but there is little reason to believe it actually happened. On the other hand, had they, for example, not felt like filling out extra forms on a given day, this would not affect the validity of the experiment's results.

Table One shows the degree to which the three treatments were delivered as designed. Ninety-nine percent of the suspects targeted for arrest actually were arrested; 78 percent of those scheduled to receive advice did; and 73 percent of those to be sent out of the residence for eight hours actually were sent. One explanation for this pattern, consistent with experimental guidelines, is that mediating and sending were more difficult ways for police to control a situation. There was a greater likelihood that officers might have to resort to arrest as a fallback position. When the assigned treatment is arrest, there is no need for a fallback position. For example, some offenders may have refused to comply with an order to leave the premises.

This pattern could have biased estimates of the relative effectiveness of arrest by removing uncooperative and difficult offenders from mediation and separation treatments. Any deterrent effect of arrest

could be underestimated and, in the extreme, arrest could be shown to increase the chance of repeat violence. In effect, the arrest group would have too many "bad buys" relative to the other treatments.

Fortunately, a statistical analysis of this process shows that the delivered treatments conformed very closely to the experimental design, with no problems of bias.

Things went less well with interviews of victims; only 205 (of 330, counting the few repeat victims twice) could be located and initial interviews obtained, a 62 percent completion rate. Many of the victims simply could not be found, either for the initial interview or for follow-ups. They had left town, moved somewhere else, or refused to answer the phone or doorbell. The research staff made up to 20 attempts to contact these victims and often employed investigative techniques (asking friends and neighbors) to find them. Sometimes these methods worked, only to have the victim give an outright refusal, or break one or more appointments to meet the interviewer at a "safe" location for the interview.

The response rate to the biweekly follow-up interviews was even lower than for the initial interview, as response rates have been in much research on women crime victims. After the first interview, for which the victims were paid \$20, there was a gradual falloff in completed interviews with each successive wave; only 161 victims provided all 12 follow-up interviews

over the six months, a completion rate of 49 percent. Whether paying for the follow-up interviews would have improved the response rate is unclear; it would have added over \$40,000 to the cost of the research. When the telephone interviews yielded few reports of violence, every fourth interview was conducted in person.

Fortunately, there is absolutely no evidence that the experimental treatment as-

signed to the offender affected the victim's decision to grant initial interviews. Statistical tests showed there was *no* difference in victims' willingness to give interviews according to what police did, race of victim, or race of offender.

In sum, despite the practical difficulties of controlling an experiment and interviewing crime victims in an emotionally charged and violent social context, the experiment succeeded in producing a promising sample of 314 cases with complete official outcome measures and an apparently unbiased sample of responses from the victims in those cases.

Results

The 205 completed initial interviews provide some sense of who the subjects involved in domestic violence are, although the data may not properly represent the characteristics of the full sample of 314. They show the now familiar pattern that domestic violence cases coming to police attention disproportionately involve unmarried couples with lower than average educational levels, who are disproportionately minority and mixed race (black male, white female) and who are very likely to have had prior violent incidents with police intervention. The 60 percent unemployment rate for the experiment's suspects is strikingly high in a community with only about five percent of the workforce unemployed. The 59 percent prior arrest rate is also strikingly high, suggesting (with the 80 percent prior domestic assault rate) that the suspects generally are experienced law-breakers who are accustomed to police interventions. But with the exception of the heavy representation of Native-Americans due to Minneapolis' proximity to many Indian reservations, the characteristics in Table Two are probably close to those of domestic violence cases coming to police attention in other large U.S. cities.

Two kinds of measures of repeat violence were used in the experiment. One was a police record of an offender repeating domestic violence during the six-month follow-up period, either through an offense or an arrest report written by any officer in the department or through a subsequent report to the project research staff of an intervention by officers participating in the experiment. A second

Police handling of chronic, thorny problems such as domestic violence cases usually has been characterized by seat-of-the-pants adoption of remedies thought to work. But little lay behind such cures except an untested belief in their efficacy. Domestic violence provided a fine example of the way police approached difficult problems. Clearly productive answers based on hard evidence were needed.

The Minneapolis domestic violence experiment not only provides new insights into the spouse assault problem and its solutions, but it highlights the general need for analysis, experimentation, and evaluation in law enforcement.

A number of factors traditionally have worked against a belief that arrest works best in both gaining leverage over assailants and deterring future violence. These factors included the absence of legislation that would enable officers to make arrests in misdemeanor assault cases that did not occur in their presence; the male dominated psychology of a police world that did not relish interference in a "man's castle" and affairs; and the notable reluctance of cowed women to come forward or, having found the courage, to see the process of arrest and prosecution through.

The domestic violence experiment, by demonstrating the efficacy of an arrest policy, influenced the Minneapolis legislature to make necessary changes; reshaped the policies of the Minneapolis Police Department to force more arrests; and reinforced the feminist thrust calling for stricter adherence to an arrest policy in domestic violence cases.

All of this combined to change dramatically the way the Minneapolis Police Department looks at, and responds to, domestic violence cases. The policy will be to arrest. The law enables us to do so and women, the usual victims, are being persuaded to come forward.

We believe an important step has been taken and that this step will influence police handling of domestic violence cases nationally. This experiment, in which the National Institute of Justice, the Police Foundation, and the Minneapolis Police Department participated, has, we think, blazed a new trail for law enforcement's progress.

Anthony V. Bouza
Chief of Police.

Minneapolis Police Department

Table 2
Victim and Suspect
Characteristics: Initial Interview
Data and Police Sheets

A. Unemployment

Victims 61%

Suspects 60%

B. Relationship of Suspect to Victim

Divorced or separated husband 3%

Unmarried male lover 45%

Current husband 35%

Wife or girlfriend 2%

Son, brother, roommate, other 15%

C. Prior Assaults and Police Involvement

Victims assaulted by suspect, last six months 80%

Police intervention in domestic dispute, last six months 60%

Couple in counseling program 27%

D. Prior Arrests of Male Suspects

Ever arrested for any offense 59%

Ever arrested for crime against person 31%

Ever arrested on domestic violence statute 5%

Ever arrested on an alcohol offense 29%

E. Mean Age

Victims 30 years

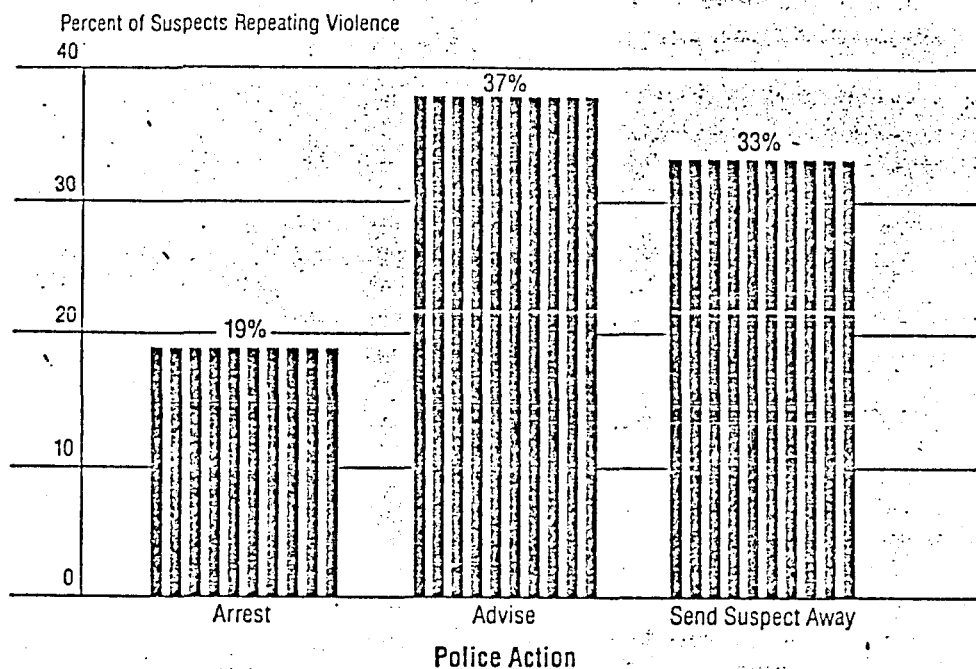
Suspects 32 years

F. Education

	Victim	Suspect
< high school	43%	42%
high school only	33%	36%
> high school	24%	22%

Figure 2 Percentage of Repeat Violence Over Six Months For Each Police Action:

VICTIM INTERVIEWS N = 161



kind of measure came from the interviews in which victims were asked if there had been a repeat incident with the same suspect, broadly defined to include an actual assault, threatened assault, or property damage.

The technical details of the analysis are reported in the April 1984 *American Sociological Review*. The bar graphs in Figures 1, 2, and 3 approximate equations presented in that article, which made statistical adjustments for such problems as the falloff in victim cooperation with the interviews. Figure 1 shows the results taken from the police records on subsequent violence. The arrest treatment is clearly an improvement over sending the suspect away, which produced two and a half times as many repeat incidents as arrest. The advise treatment was statistically not distinguishable from the other two police actions.

Figure 2 shows a somewhat different picture. According to the victims' reports of repeat violence, arrest is still the most effective police action. But the advise category, not sending the suspect away, produced the worst results, with almost twice as much violence as arrest. Sending the suspect away produced results that were not statistically distinguishable from the

results of the other two actions. It is not clear why the order of the three levels of repeat violence is different for these two ways of measuring the violence. But it is clear that arrest works best by either measure.

Additional statistical analysis showed that these findings were basically the same

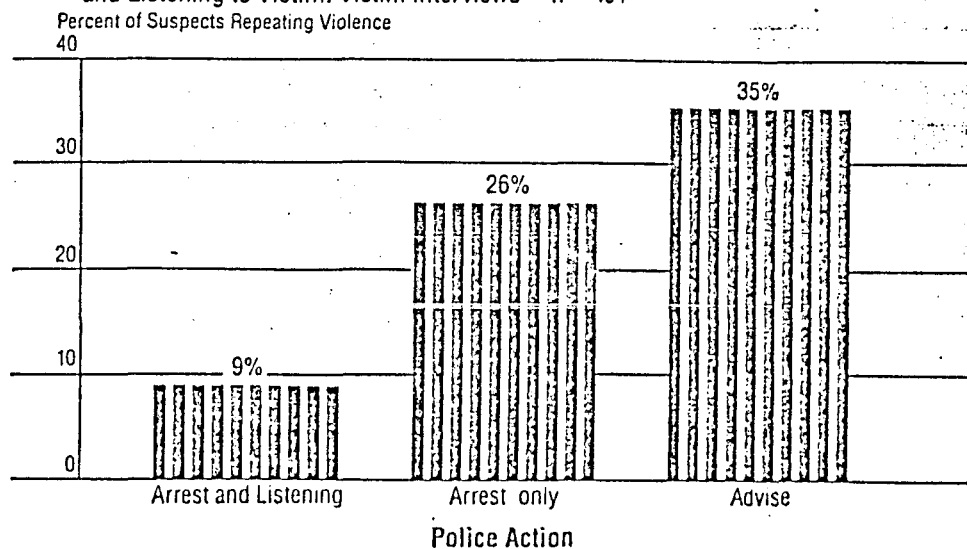
for all categories of suspects. Regardless of the race, employment status, educational level, criminal history of the suspect, or how long the suspect was in jail when arrested, arrest still had the strongest violence reduction effect. There was one factor, however, that seemed to govern the effectiveness of arrest: whether the police showed interest in the victim's side of the story.

Figure 3 shows what happens to the effect of arrest on repeat violence incidents when the police do or do not take the time to listen to the victim, at least as the victim perceives it. If police do listen, that reduces the occurrence of repeat violence even more. But if the victims think the police did not take the time to listen, then the level of victim-reported violence is much higher. One interpretation of this finding is that by listening to the victim, the police "empower" her with their strength, letting the suspect know that she can influence their behavior. If police ignore the victim, the suspect may think he was arrested for arbitrary reasons unrelated to the victim and be less deterred from future violence.

Conclusions and Policy Implications

It may be premature to conclude that arrest is always the best way for police to handle domestic violence, or that all suspects in such situations should be arrested. A number of factors suggest a

Figure 3 Percentage of Repeat Violence Over Six Months For Each Police Action and Listening to Victim: Victim Interviews* N = 194



*All bars are approximate, and drawn from a multivariate model that includes the effects of the prior number of arrests for crimes against persons.

cautious interpretation of the findings:

Sample Size. Because of the relatively small numbers of suspects in each subcategory (age, race, employment status, criminal history, etc.), it is possible that this experiment failed to discover that for some kinds of people, arrest may only make matters worse. Until subsequent research addresses that issue more thoroughly, it would be premature for state legislatures to pass laws requiring arrests in *all* misdemeanor domestic assaults.

Jail Time. Minneapolis may be unusual in keeping most suspects arrested for domestic assault in jail overnight. It is possible that arrest would not have as great a deterrent effect in other cities where suspects may be able to return home within an hour or so of arrest. On the other hand, Minneapolis seems to have the typical court response to domestic violence: only three out of 136 of the arrested suspects ever received a formal sanction from a judge.

Location. Minneapolis is unusual in other respects: a large Native-American population, a very low rate of violence, severe winters, and low unemployment rate. The cultural context of other cities may produce different effects of police actions in domestic violence cases.

Interviewer Effect. Strictly speaking, this experiment showed the effects of three police responses *plus* an intensive effort by middle class women to talk to victim's over a six-month follow-up. It is possible that the interviewers created a "surveillance" effect that deterred suspects. Whether the same effects would be found without the interviews is still an open question.

A replication of the experiment in a different city is necessary to address these questions. But police officers cannot wait for further research to decide how to han-

dle the domestic violence they face each day. They must use the best information available. This experiment provides the only scientifically controlled comparison of different methods of reducing repeat violence. And on the basis of this study alone, police should probably employ arrest in most cases of minor domestic violence.

Legislative Implications. The findings clearly support the 1978 statutory reform in Minnesota that made the experiment possible. In many states the police are not able to make an arrest in domestic violence cases without the signed complaint of a victim. In at least one state (Maryland), police cannot make an arrest without a warrant issued by a magistrate. This experiment shows the vital importance of state legislatures empowering police to make probable cause arrests in cases of domestic simple assault.

Impact of the Experiment. As a result of the experiment's findings, the Minneapolis Police Department changed its policy on domestic assault in early March of 1984. The policy did not make arrest 100 percent mandatory. But it did require officers to file a written report explaining why they failed to make an arrest when it was legally possible to do so. The policy was explained to all patrol officers in a roll call videotape. The initial impact of the policy was to double the number of domestic assault arrests, from 13 the weekend before the policy took effect to 28 the first weekend after. On one day in mid-March there were 42 people in the Minneapolis jail on spouse assault charges, a record as far as local officials could remember.

The experiment apparently has done more than contributed to knowledge. It also has helped to change police behavior in Minneapolis, and possibly in other cities as well. If the findings are truly generalizable, the experiment will help ultimately to reduce one of the most common forms of violent crime.

References

- Bard, Morton
1970 "Training Police as Specialists in Family Crisis Intervention." U.S. Department of Justice.
Bard, Morton and Joseph Zacker
1974 "Assaultiveness and Alcohol Use in Family Disputes - Police Perceptions." *Criminology* 12:281-292

The success of the Minneapolis domestic violence experiment depended on the dedication and hard work of both the project staff and many police officers.

The project staff:

Nancy Wester, Project Manager, and
Amy Curtis
Kay Gamble
Gayle Gubman
Donileen Loseke
Debra Morrow
Phyllis Newton
David Rauma
Roy Roberts

Minneapolis police officers taking part in the experiment:

Edward Belmore	Carmelo Morcillio
Dalyn R. Beske	Marie Morse
Theodore J. Boran	William H. Nelson
Jeffrey A. Drew	Craig Nordby
Perry Dunfee	Dennis Nordstrom
Dayton Dunn	Keith L. Oldfather, Jr.
Michael J. Falkowski	James M. Palmborg
John T. Frazer	Stephen L. Persons
Duane A. Fredrickson	Thomas Peterson
Riley N. Gilchrist	Timothy K. Prill
Manuel J. Granroos	Myron D. Rognlie
Jack Hanson	David Rumpza
Gregory S. Hestness	Michael R. Sauro
Phillip Hogquist	Michael H. Schoeben
Charles R. Howe	Eugene A. Schreiber
James E. Howell	Robert A. Thunder
Wayne E. Humphrey	Clinton Tucker
George R. Janssen	Matthew J. Vincent
Luther C. Koerner	Thomas E. Wallick
Charles Lechelt	Martha Will
David A. Lindman	

- Berk, Sarah Fenstermaker and Donileen R. Loseke
1981 "Handling Family Violence: Situational Determinants of Police Arrest in Domestic Disturbances." *Law and Society Review* 15:315-346.
Black, Donald
1980 *The Manners and Customs of the Police*. New York: Academic Press.
Cook, Thomas D. and Donald T. Campbell
1979 *Quasi-Experimentation: Design and Analysis Issues for Field Settings*. Chicago: Rand McNally.
Emerson, Charles D.
1979 "Family Violence: A Study by the Los Angeles County Sheriff's Department." *Police Chief* (June): 48-50.
Fagin, James A.
1978 "The Effects of Police Interpersonal Communications Skills on Conflict Resolution." Ph.D. Dissertation, Southern Illinois University. Ann Arbor: University Microfilms.
Illinois Law Enforcement Commission
1978 "Report on Technical Assistance Project—Domestic Violence Survey." (Abstract). Washington, D.C.: National Criminal

The Minneapolis domestic violence experiment was conducted under Grant Number 80-IJ-CX-0042 from the Office of Research and Evaluation Methods, Crime Control Theory in Policing Program, National Institute of Justice, U.S. Department of Justice. Points of view or opinions stated in this report do not necessarily represent the official position of the U.S. Department of Justice, the Minneapolis Police Department, or the Police Foundation.

take the law into their own hands or despair of finding relief at all — or why the male feels protected by the system in his use of violence.

As an example of the novel ways police departments seek to avoid becoming involved I would like to relate two strategies utilized by the Detroit Department. The first is euphemistically called a "peace bond." Note that the spelling is with an "a" not an "i." This non-document was issued to the perpetrator by an assistant prosecutor. It admonished him to cease and desist beating his wife on pain of being prosecuted if he should repeat the offense during the time limits stated. Surprisingly this was a fairly effective device. It was effective because the prosecutor would follow through on his commitment when the assault was later repeated.

So well accepted was this strategy that wives would come in seeking a peace bond. It had the advantage of restraining the violent husband while not adversely affecting the family's economy by placing him in jail. Of course I believe that it merely gave him an opportunity to save face for not living up to his socially required duties of the male dominance role. "I can't beat her even though she deserves it because I'm on a peace bond."

Later the prosecutor withdrew from his role and the police took over issuing the peace bond. At this time it lost whatever effectiveness it once had because the prosecutor no longer had a commitment to follow through if the offender repeated.

The second example of a not atypical strategy is what has become known as "call screening." Some years back calls for police service exceeded the department's ability to respond. The decision was made not to respond to certain types of calls. Wouldn't you know that the first calls screened out were family troubles. Although the women found a convenient override which would assure a police response it has diminished in effectiveness by overuse. They merely alleged that their tormentor had a gun, even if he did not. This had limited value because the policemen arriving at the home and discovering the ruse left after an angry outburst and didn't even make a report. His display of non-interest could be expected to instill in the aggressor a feeling that violence against a wife was actually permissible, as long as it didn't involve a firearm.

Call screening has had the effect of masking the true dimensions of the problem. While it's possible to count the number of calls for police service in domestic situations even when police do not respond it is impossible to even estimate the number of women who do not call the police. They, either directly or indirectly have become aware that the police will seldom intervene in their problems.

Explicitly or implicitly the criminal justice system says to the citizen, "look we can't solve your personal problems." It seems that police agencies are inept in their efforts to successfully intervene in social conflict situations — they are adept however at homicide investigations. If our present attitudes continue we will become increasingly good at homicide resolution.

Such extreme pessimism may, however, be unwarranted. Dr. Witt, in our study, has made several recommendations which may contribute to a decrease in the incidence of "battered wives."

First of all there needs to be a turnabout in the thinking of police administrators. We must cease viewing domestic violence as beyond the role of the criminal justice system. Such a reorientation would require immediate steps to train police officers in conflict intervention techniques. Such

training should not be designed to make therapists of police officers, but rather to assist them in de-escalating domestic violence as a short range goal. Minimally they should be rendered competent enough that they do not worsen an already tense situation. Secondly we need to commit ourselves to full response rather than screening out those calls for service which we are not very adept at resolving. Once we respond we should make full reports of the incident, creating from these reports a history of conflict that can be utilized by action agencies.

We should create a diagnostic facility staffed with the full range of expertise from medical and legal, to budget planning. These experts would analyze the conflict situation of the battling couples and affirmatively refer them to the appropriate existing social service agencies. Such a facility staffed by public and private sector experts would assure that the appropriate service was rendered rather merely dumping persons in trouble into broad social service programs. In order to initiate this diagnostic-intervention strategy the police would play the limited role of identifying the parties and situations in which intervention was needed.

Fourth we need to examine a full range of non-criminal remedies for social conflict. One such strategy could be the disarmament of conflict prone households by intervention through the civil process. Another might well be the judicially decreed separation of violence prone couples. I realize the latter suggestion is unpalatable to many, however, there comes a point when society must intervene on the behalf of those persons not willing to initiate the action necessary to preserve their own lives.

Finally, as I have said before we must begin to view domestic violence as a "public issue" rather than a "private problem." We must recognize the tremendous costs in blood and money of our failure to protect those people who are daily brutalized by their conjugal partners. As distasteful as it may seem to most, society must recognize the role it has played in creating an ideal of the sanctity of the home beyond whose doors anything goes.

The potential for progress in this vital area is dim and remains so as long as we continue to view women as property rather than as fully vested, independent members of society. The criminal justice system affirmatively responded to the brutalization of children who shared the females' property classification. It must now do more to assure the same safeguards for women, at least for the length of time it would require to resocialize our society in its male-female role concepts.

It is no accident that women are not the subject of express concern in the constitution of the United States. That document, like the law (and law enforcement) which follows from it reflects the standard socialization of its framers. Women were not second class citizens but in fact were non-citizens. As they were not entitled to the protections extended to fully vested male citizens. At this point in time, almost two hundred years later abused wives are still not receiving even minimally sufficient protection or cooperation from either police or the criminal justice system as a whole.

Presented to the American Bar Association Convention, August 12, 1975. Reprinted with permission of the author by American Friends Service Committee, Women's Issues Program, 2161 Massachusetts Avenue, Cambridge, Massachusetts 02140.

LAW ENFORCEMENT PROBLEMS WITH INTRA-FAMILY VIOLENCE

by James Bannon Ph.D. Commander Detroit Police Department

This paper views the issue of the criminal justice system's contribution to family violence. The legal and law enforcement professions have long been enamored of psychological explanations of violent behavior. These individual pathologies, though of some limited validity, are not terribly helpful in designing strategies for dealing with violent behavior at the street level.

To me the more promising, and I believe more legitimate approach to an understanding of family violence is offered by viewing it as a social phenomenon. It has been said often that violence is as "American as apple pie" and surely we can no longer view as debatable the remarkably American emphasis on individuality. Taken together with the view of woman as property we virtually guarantee the widespread existence of a phenomenon now being dubbed the "battered wife syndrome."

Those of us in law enforcement, who are the first official representatives of government to respond to violence in the home, are socialized in precisely the same manner as the citizens we are expected to restrain or protect.

Policemen, like most males, are taught a self-reliance, "fight your own battles" philosophy from the cradle. Similarly we are socialized into the conscious perceptions of masculine-feminine roles. In our society this process translates into dominance-submission terms. The man is the boss, the owner, the female the subordinate, the property.

Most frequently it is when these role expectations are not observed that violence occurs between married couples, or those who are involved in relationships which approach our definition of marriage. That includes economic dependence or inter-dependence and sexual access.

Taken together with our culture's views on the sanctity of the home, the above social factors guarantee that police will be less than enthusiastic about becoming involved in family disputes.

As it turns out, in the case of domestic violence, we reject the rule of law which makes it a crime to assault another person regardless of the degree of injury or the relationship existing between the victim and the perpetrator of the violence. We substitute in its stead an arbitrary determination usually based on irrelevant factors. Most frequently the factor which will cause police intervention is a family fight which disrupts the peace and tranquility of the neighborhood, next most frequently the use of a deadly weapon and thirdly the degree of injury involved. All of course are irrelevant to the substantive charge of assault.

In my view the police attitude, which seems to say that what happens between husband and wife in their own home is beyond the authority or ability of the police to control is a "cop out." The real reason why police avoid domestic violence situations to the greatest extent possible is that we do not know how to cope with them and because we share society's view that domestic violence is an individual problem and not a public issue. Only when society in general is made aware of the extreme social and economic costs of domestic violence will sufficient interest be generated to force law enforcement and the criminal justice system to find solutions to these problems.

The abuse of victims of crime by our criminal justice system is a national disgrace. Leading that procession of shame are the abused wives, women married to violent men who have been taught from the cradle that they have a right, indeed an obligation, to manage their personal affairs, to redress presumed insults and to force compliance to their orders by the use of their fists.

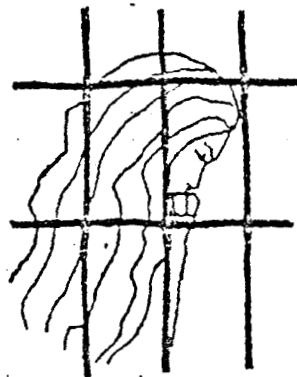
It is amazing to me that we are unaware of the extreme paradox of delegating to police officers the role of arbiters of

family disputes. Of all the non-athletic occupations none is so absorbed with the use of physical coercive force as that of the police officer and none requires a more thorough socialization in the masculine role image.

This paradox suggests to me that traditionally trained and socialized policemen are the worst possible people to attempt to intervene in domestic violence. Their known physical propensities may in fact reinforce the degree to which they perceive as legitimate the use of violence by a husband against a wife. While police, because of their position, must play a role in intervention strategies they perhaps need only be utilized as identifiers of problematic family situations.

It is my view that police, and later prosecutors and courts, contribute to domestic violence by their laissez-faire attitudes toward what they view as essentially a "personal problem." This is made even more problematic because police are socialized to regard females in general as subordinate. The super-ordinance of the male coupled with his socially mandated reliance on violence to resolve personal problems without outside assistance assures us that wives will continue to be battered in record numbers.

It's clear from our research that in virtually every case of homicide of the social conflict variety there has been a long history of conjugal violence. It is even possible to predict a homicide if only we recorded this violence. However, it's not possible to predict who will be the perpetrator and who the deceased. Because in the final resolution of the conflict situation it is frequently the former victim of all those assaults who



Groundwork/cpf

finally resolves the problem society and the justice system has ignored and kills her tormentor. Thus, she again validates the use of violence to resolve her problem, one that society is unable or unwilling to even recognize as a public issue let alone redress.

In Detroit, as in many other cities the treatment of female victims of assault of the domestic variety could charitably be termed cavalier. Perhaps more accurate would be to call it malfeasance.

The attrition rate in domestic violence cases is unbelievable. In 1972 for instance, there were 4900 assaults of this kind which had survived the official process long enough to at least have a request for warrant prepared and the complainant referred to the assault and battery squad. Through the process of conciliation, as a result of complainant harassment and prosecutor discretion, fewer than 300 of these cases were ultimately tried by a court of law. And in most of these the court used the judicial process to attempt to conciliate rather than adjudicate.

If you bear in mind that these cases had been culled over several times by court officials so that only where the injury was extreme or the offense repeated would a warrant have been issued you can readily understand why women ultimately

Mandatory arrest

Sioux Falls, SD
Arquo leader
3/4/85

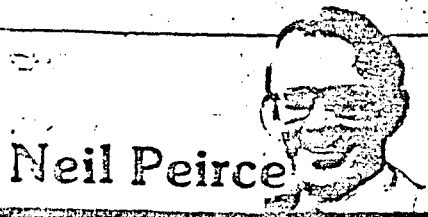
Seattle's get-tough policy curtails domestic violence

SEATTLE — Repeatedly attacked by her husband, a terrified Joanne Tulonen called the police. "They came — six of them — and stood around laughing and joking. I asked them to arrest him. They said, 'No, today's Saturday, and we're busy for the weekend, and Monday's Labor Day. You could come in Tuesday and swear a complaint if you want.'"

That was 14 years ago, in an eastern state. "I ended up leaving my nurse's job, my family, my home and going into hiding with my child in Denver for eight years," Tulonen relates. "And there was always the nightmare of being found. Fleeing hurts like hell, but I'd rather be alone, on the streets, than being beaten up."

Today, Tulonen heads the battered women's project within the

Seattle prosecutor's office — the first of its kind in the nation. She's helped thousands of women bring the weight of legal protection against the domestic violence that Police Foundation president Patrick Murphy calls



Neil Peirce

the quiet criminal plague of American life.

And now a simple concept — automatic arrest when the police find evidence of a domestic assault within four hours of being called to the scene — has arrived in Washington state. Patterned after pioneering statutes in Oregon and Minnesota, it's having what high Seattle police official calls a dramatic effect.

In all of 1983, the Seattle police arrested only 383 domestic abusers. But in the first five months after the new statute took effect last September, they arrested 1,281.

Most police, prosecutors, judges, and sociologists start out skeptical — if not downright opposed — to the idea of mandatory arrest. The old idea "home is a man's castle" and he can beat up on his wife if he pleases dies hard. Therapists often want to fix relationships instead of first stopping criminal behavior. Officials fear a deluge of cases and high costs of incarceration — in fact, the Washington law stirred up a hornet's nest of police opposition when arrests suddenly spiraled in September.

But the evidence is rolling in: Mandatory arrest, as opposed to talk-around-the-block-and-cool-off counsel police have been handing out for years, is a powerful tool in breaking the brutal cycle of family violence. Last year's report of the U.S. Attorney General's Task Force on Family Violence concluded from research "arrest and overnight incarceration are the most effective interventions to reduce the likelihood of subsequent acts of family violence. A victim's chance of future assault was nearly two and half times greater when officers did not make an arrest."

"The new law is a tremendous hammer to get people's attention," Leo Poort, Seattle police legal counsel, says. "There's no other part of the criminal justice system where you get two days in jail — up front."

"The new law is a tremendous hammer to get people's attention. There's no other part of the criminal justice system where you get two days in jail — up front."

— Leo Poort

police legal counsel

Even the victimized women often have been shocked to see their mates hauled off to the slammer. But few are displeased to see the mandatory counseling which follows convictions.

Critics in Seattle have pointed to the \$100-a-day cost for jailing prisoners. But psychologist Anne Ganley, a national expert on domestic abuse who provides direct counseling to male batterers, asserts: "People are blaming the law because the jails or courts are full. The fact is they're full because of the violence."

It's indisputable the violence is widespread. Likening a marriage license to a hitting license, the University of New Hampshire's Murray Straus estimates a minimum of 5.7 million American women are assaulted by their husbands every year.

And not only married women: One study in Minneapolis found that 45 percent of domestic-assault victims were unmarried. The new automatic-arrest laws cover not just wife beating but assaults on ex-spouses, in-laws, and unmarried housemates, gays included.

Says Donna Stringer, director of Seattle's Office for Women's Rights, "Most men who beat up their partners wouldn't get into a fight in a bar, or punch a coworker because they know they couldn't get away with it."

Local outrage is one way to get domestic violence addressed. In Seattle it was sparked in 1982 when a local lawyer representing a battered woman was gunned down by her assailant in the lobby of his downtown office building. His law partners formed a bar association task force on domestic violence that drafted the mandatory arrest law. It was adopted unanimously by the Washington Legislature last year.

The new frontier, Ganley adds, must be prevention — starting with school programs teaching children that conflicts and anger needn't lead to hitting and physical violence.

But the first, dramatic change comes from letting potential batterers know they'll face the full power of the law for their actions. Shelters for battered women play a role, Tulonen says. "But what we really need are shelters for men — places to get their brains fixed."

Neil Peirce is with *The National Journal*, a weekly publication on government news.

Study: Arrest deters family violence

WASHINGTON (AP) — Victims of assaults by family members are nearly twice as likely to be attacked again if the police do not arrest the attacker, according to a federally funded experimental study released Monday.

The experiment, conducted in Minneapolis in 1981-82, found that arrest, even if not followed by conviction, was a far more effective deterrent than the traditional police responses of removing the attacker from the scene for eight hours or just providing advice and mediation.

James K. Stewart, director of the Justice Department's National Institute of Justice, which funded the experiment, said the results show "the police should use arrests quite frequently in typical domestic violence cases if they want to reduce assaults."

The experiment was conducted by the Police Foundation, a private, non-profit police reform group, and by the Minneapolis Police Department in misdemeanor assault cases between family members where there was no life-threatening or severe injury. The three responses — arrest, removal and advice — were used on a random basis.

In 35 percent of the cases where police did not make an arrest, victims surveyed later said there was a repeated assault within six months. But in those cases where police made an arrest, only 19 percent of the victims reported repeated violence.

The results were even more dramatic when measured by official police reports rather than follow-up interviews. In 22 percent of the households in which no arrest was made, another crime report was filed within six months. But a repeat police report was found in only 10 percent of the households where an arrest was made.

The study also found that when police officers took time to listen to the victim before making an arrest, the deterrent effect doubled. The study suggested that this procedure lets the suspect know that the victim can influence police behavior.

Like other studies of family violence, the Minneapolis experiment found that its 314 cases usually involved unmarried, minority or mixed-race couples with less-than-average education and a greater-than-average likelihood of being unemployed and having a previous police record.

Of the 136 arrests in the study, only three resulted in convictions, prompting Stewart to conclude that "arrest appears to deter violence, even when the courts take no action."

Noting that this was the nation's "first controlled experiment in the use of arrest," Stewart said, "Some police departments around the country, including New York City, Houston, Dallas and Minneapolis, have already revised their policies in light of these results." Preliminary findings were released a year ago.

The study's co-authors, Police Foundation vice president Lawrence W. Sherman and sociology professor

Richard A. Berk of the University of California at Santa Barbara, said that women's groups had pressed police departments in recent years to increase arrests in family violence cases.

But Sherman and Berk pointed out that 22 states still bar police officers from making arrests unless they have a warrant or they actually witness the assault. "This report shows that, at the very least, those laws need to be changed," Sherman said.

A Police Foundation survey of police departments serving more than 100,000 people found that only 10 percent currently encourage arrests in

domestic assault cases. Almost none of the departments kept separate statistics on domestic assault cases.

Minneapolis Police Chief Anthony V. Bouza attributed the traditional reluctance to make arrests in such cases to "the absence of legislation that would enable officers to make arrests in misdemeanor cases that did not occur in their presence; the male-dominated psychology of a police world that did not relish interference in a 'man's castle' and affairs, and the notable reluctance of cowed women to come forward or, having found the courage, to see the process of arrest and prosecution through."

Opinion and comment

An officer died, a problem continues

Anaconda Police Officer Tim "Sox" Sullivan has fallen to one of the greatest fears of policemen — walking in on a domestic dispute, and not walking out.

The emotions involved in the battles among spouses, divorced persons and lovers are strong, sometimes overwhelming.

Policemen, called upon to serve and protect, know the inherent dangers in such situations. In his 17 years of service, Sullivan, no doubt, responded to myriad "domestics" as they are known.

The social pressures brought on by hard economic times, and the harsh realities of unemployment and divorce sometimes are not manifested as violently as when Officer Sullivan and Ida Terkla were murdered.

But, such violence is always a possibility.

No amount of potential, non-

police, community intervention can stop every domestic violence situation from erupting into murder. But, such community programs can help.

When Officer Sullivan received the call to the Terkla home last Sunday he might have been thinking about the possibility of being shot.

He might have thought only of preventing a further problem.

Whatever the case, he sacrificed his life to serve and protect.

Anaconda, other Montana cities and the Legislature should take a renewed look at the problems surrounding domestic violence.

There may well be some untried methods of early intervention. If some solutions can be found, Officer Sullivan's death, while remaining tragic, might lead to the prevention of similar deaths in the future.

83

February 1985

Dear Legislatures:

I would like to take a few minutes of your time to tell how mandatory arrest could have helped my mother and I.

I am a 19 year old female who was abused by my step father when in my early teens. I also watched as the same man abused my mother. My mother and I never called the police on him. We knew that he would calm down when the police arrived, but the abuse would have gotten worse after they left.

We endured the abuse for about five long years and by this time my self-confidence and self-esteem was down but my hatred for men was up.

I feel mandatory arrest could have brought the abuse to a quicker end in several ways. First he would have realized that the abuse was not acceptable behavior.

He would have had to think twice about hitting us since the police could have come and arrested him on the spot. But the basic way it would have helped end it is that he would have gotten the help he needed. Maybe if the mandatory arrest had been enforced my mother and he would be still married but happy together; and maybe I wouldn't be so bitter.

Please consider passing the mandatory arrest issue.

Sincerely,

Annette

Butte Christian Community Center
P. O. Box 634, Uptown
Butte, MT. 59703
782-8511
March 20, 1985

EXHIBIT J
3/21/85
SB 449



battered women's &
children's shelter

TESTIMONY: HOUSE JUDICIARY COMMITTEE: SB 449

My name is Kelly Rosenleaf. I'm the Director of Safe Space which is a crisis line and shelter program for victims of domestic violence and rape in the Butte area. I have held this position for over two years.

Thus far, in fiscal year 1984-85 Safe Space has worked with 74 women and 68 children who live in violent homes. Approximately 40% of our referrals come from the sheriff's department. I would like to take some time to outline a few of the cases that have recently been referred by the sheriff's department.

*Six months ago Safe Space received a call to pick up a woman and her infant child at the station. The woman had several bruises and probably broken ribs but refused to seek medical help for financial reasons. As the woman talked about her home life and the current violent incident, it became clear that the situation was immediately life threatening. The batterer had recently served five years and had been paroled from MT State Prison for killing a cow. The incident that brought the client to our attention was that a neighbor had called the sheriff because the woman was being chased down the street by her husband with an ax. The sheriff took the woman and her child to the station and called us. No arrest had been made. I asked my client if she had filed a complaint, if she wanted her husband arrested. She replied that the officer had not asked if she wanted to file a complaint and did not explain the assault law to her. She stated the police had been to her home before and had never discussed arresting her husband so she assumed no law had been broken. She expressed anger that a cow's life seemed to be worth more in the eyes of the law than her's.

* In January, I visited a client in St. James Hospital who was there with a broken pelvis, numerous bruises and scratches. The batterer had thrown the television set at her. This woman was very upset about her daughter who was still at home with her boyfriend. She decided upon release from the hospital she would go home, get her daughter and begin looking for her own place. She was afraid to sign a complaint because of what might happen to her daughter, and because she knew her boyfriend would not be held long and would blame her for his arrest, possibly becoming violent again.

Butte Christian Community Center
P. O. Box 634, Uptown
Butte, MT. 59703
782-8511



battered women's &
children's shelter

TESTIMONY: HOUSE JUDICIARY COMMITTEE: SB 449 (Cont.)

* A few months ago I worked with a woman from Jefferson County who had filed assault charges against her husband because he had beaten and threatened her with a gun. She also filed for a divorce and temporary restraining order. The county seat is Boulder ; she lived in another small town. The sheriff said he would try to send a deputy later in the week to serve the warrant and restraining order. This woman and her three children were at Safe Space three weeks before these papers were served and she felt safe enough to return home. Our usual limit on how long families can stay is two weeks.

We see women at Safe Space regularly who have cuts, bruises, broken bones, black eyes, stab wounds and who have been threatened with guns. About 20% of our referrals are directly from the hospital. These women have expressed a distrust of the legal system because they have failed to get any response from them in the past. Many fear what will happen if they sign a complaint, fear they will be blamed and beaten, and that law enforcement will not protect them.

Several officers on the Butte force have expressed a feeling of helplessness because they are unable to make an arrest for something they did not see unless the victim signs a complaint. They have grown frustrated with women who are afraid to sign and in my experience do not seem to be explaining the system and procedures to my clients.

My experience is that law enforcement officers and county attorneys are extremely reluctant to work with assault cases that occur within families. I hear from these professionals that "these women will never testify anyway and it's her word against his" ; We don't know who to believe" (as the woman is having stab wounds stitched in the emergency room). I've heard from the county attorney's office " Well, I'm not sure what we can do but we'll put it on file." The few cases I have seen actually prosecuted, the batterer is released on one hundred dollars bail within an hour . Later he gets a three months deferred sentence.

I'm concerned that current law views women as the property of men, giving husbands and boyfriends the right to abuse them without legal sanctions. I wonder along with my client if in fact, cows are worth more than women in the eyes of the law.

If you believe that women have the right not to be abused within their homes I urge you to support SB 449.

Kelly Rosenleaf
Director

(A little over a year ago I
(left my husband, an alcoholic,
(because of his abusive behavior
(to me & my daughter. At that
(time the abuse was verbal
(with threats of physical harm.

(I returned to Butte in
(June of 84 hoping that the
(separation may have opened
(his eyes. It didn't! One day
(during the last week in July,
(he tore my blouse off me while
(I was driving on the free-
(way. He was also very

(profane. A few nights later
(he came home and pulled
(all the drawers out of our
(dresser, dumped clothes all
(over & proceeded to tear up
(the rest of the apartment!

(While he was tearing things
(up he again was verbally
(abusive & threatened me
(again with physical harm.

(After these 2 incidents I
(contacted the Butte Alcoholic
(Center and the W. A.'s office.
(about involuntary commitment.

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



March 21, 1985

Testimony of the Women's Lobbyist Fund (WLF) by Gail Kline,
before the House Judiciary Committee in support of SB 449

Mr. Chairman and members of the House Judiciary Committee:

For the record, my name is Gail Kline, representing the Women's Lobbyist Fund, whose membership increased last Saturday by adding 11 new organizations which were accepted at a Board meeting to the existing 17 groups whose membership is around 3,000. The WLF supports SB 449.

SB 449 did require arrest but did not mandate a certain amount of time in jail. SB 449 was patterned after Washington State's new law that was passed unanimously by their legislature after a lawyer was killed. Their new law requires automatic arrest and two days in jail where there is evidence of domestic assault. SB 449 as introduced required arrest. We want "requiring" put back in. SB 449 does not require a certain amount of time in jail and the accused is processed through our system as in other crimes.

Payton v New York (100 S. CT 1371 (1980) 445 U.S. 573, 63 L.Ed. 2d 639) is a Supreme Court case dealing with prohibiting a warrantless and nonconsensual entry into a home by police to arrest a person who killed the manager of a gas station 2 days earlier. This case was recommended to me and if it is the closest case that can be found to compare SB 449 and entry into a home, it is clear that domestic assault is an area that has been totally ignored.

The Court did not mention the fact that in the two days between the death of the victim and the entry into the suspect's home, a warrant could have been obtained. It did say that exigent circumstances were needed to invade the sanctity of the house.

A definition of exigent circumstances is an emergency with the possibility of strong public danger. If a person is not arrested immediately, there could be further danger or violent assault.

SSB 449, page 5, lines 13 through 16, mentions what constitutes exigent circumstances for making an arrest in Montana's domestic abuse situations.

With the testimony heard here today, a newspaper headline - "Anaconda grieves for the slain officer it loved", and an editorial - "An officer died, a problem continues", Montana people cry out for some bold new laws. SB 449 is a proposed bold new law.

Testimony by Gail Kline
Page 2

When we ignore violence in our homes, what are we saying about family life? All the family members are victims in domestic violence and in need of help.

The state is also a victim. A recent client of a shelter in Montana, who is fifty years old, had a severe concussion, broken jaw and broken knee cap, and was recently told by a doctor that she couldn't work again. We will be paying each year of her life for medical and welfare expenses.

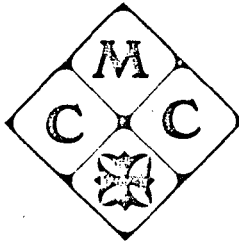
In addition, her husband is serving 8 years in the Montana State Prison and we will be paying \$12,600 each year to have him in prison due to his violent "learned behavior". His imprisonment will cost our state over \$100,000 over the eight year period not counting interest and at today's prices.

As for future custody of children for fathers, please consider that "in one-half of families where wife abuse occurs, the children are battered as well." "The Burning Bed", Viewer's Guide.

An article from L.M. Boyd, March 1985, said, "Any male person who shall willfully beat, bruise or mutilate his wife' would have been subject to punishment, if the Pennsylvania legislature of 1886 had passed the proposed bill to that effect. But the legislators wouldn't pass it. What do you make of that?"

What will history be able to say about Montana's laws?

Please support SB 449 with requiring arrest and recognize that Montana women are first class citizens entitled to equal protection with cooperation and compassion.



Montana Catholic Conference

March 21, 1985

CHAIRMAN HANNAH AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE:

I am John Ortwein representing the Montana Catholic Conference. The Montana Catholic Conference is the liaison between the two Catholic Dioceses of Montana in matters of public concern.

I am here today as a supporter of Senate bill 449.

The bill as it was initially proposed mentioned one of every two women in the United States would be abused during her lifetime. That translates to an abusive situation occurring every 18 seconds somewhere in the United States.

A study by the United States Catholic Conference entitled: Violence in the Family; A National Concern/A Church Concern, shows that a disproportionately large number of attacks by husbands seem to occur when the wife is pregnant, thus posing a grave threat to the life of the unborn child.

Research by Dr. Lenore Walker indicates a definite cycle composed of three phases in most domestic violent situations. The first is the tension-building stage; the second is the explosion; and the third is the calm, loving, respite stage. With these stages being so well documented it would seem to us that an arrest should be made at any time for the offense of domestic violence.

The Montana Catholic Conference urges your support of Senate Bill 449.



WITNESS STATEMENT

NAME Karen Abbott BILL NO. S1344
ADDRESS 425 S. Idaho St. Butte, MT DATE 3-21-85
WHOM DO YOU REPRESENT? BATTERED Women
SUPPORT YES OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

VISITORS' REGISTER

HOUSE JUDICIARY

COMMITTEE

- SB 294 (Sen. Crippen);

BILL NO. SB 332 (Sen. Towe);

DATE March 21, 1985

SB 352 (Sen. Lybeck);

SPONSOR SB 449 (Sen. Regan);

SB 453 (Sen. Van Valkenburg)

SJR 19 (Sen. Manning)

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JOE THARES	HELENA MT	SB 453	
Marti Adrian	Missoula	SB 294	
Karen S. McKee	Missoula	SB 449	
Ann Helenides	Missoula	SB 294	
O Schlemmer	Helena	SB 449	
Glen Hufstetler	Helena	SB 332	
Lois Fitzpatrick	Helena	SB 352	
T. Gregory Hunt	Missoula	SB 332	
K. M. L. L. L.	Butte	SB 453	
K. M. L. L. L.	Butte	SB 294	
Lark Francoeur	Butte	SB 449	
Gus V. V. V.	Helena	SB 449	
MARC KACIOT	Helena	SB 332	
Harold H. H.	Billings	SB 453	
Paul J. J.	Helena	SB 453	
Mike P. P.	Billings	SB 453	
Bob F. F.	Butte	SB 453	
John M. M.	Missoula	SB 453	
John P. P.	Helena	SB 294	
Bob R. R.	Missoula	SB 449	
Amy Pfeifer	Missoula	SB 453	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

D. R. Schlegel

Mont. Arts Academy

SB 332

Robert M. Mohr

Helena - MT

SB 294

CS-33

Great Falls, MT

SB 294

93

VISITORS' REGISTER

HOUSE JUDICIARY

COMMITTEE

BILL NO. SB449DATE March 21, 1985

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Cathy St. John	Great Falls, mt	✓	
Barbara Greene	Bozeman, MT	✓	
Nedra Simmons	Great Falls MT	✓	
Connie Ackman	Great Falls MT	✓	
Robert Stulver	Helen - MT	✓	
Mary Gallagher	Missoula MT	X	
James Bullock	Missoula	✓	
Gail Kline (WLF)	Great Falls	SB449	
Diana Hards	Missoula	—	
Melinda J. K.	Bozeman	SB449	
Rich Costum	Missoula	SB449 ✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 28, 1985

An executive session of the Judiciary Committee was called to order by Chairman Tom Hannah on Thursday, March 28, 1985 at 8:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

ACTION ON SENATE BILL NO. 352: Rep. Brown moved that SB 352 BE NOT CONCURRED IN. The motion was seconded by Rep. Montayne. Rep. O'Hara moved a substitute motion that SB 352 BE CONCURRED IN. The motion was seconded by Rep. Hannah. Rep. Gould further made a substitute motion that SB 352 BE TABLED. The motion was seconded by Rep. Montayne. The motion failed 6-12. (See roll call vote.)

SB 352 was re-referred back to this committee because some of the legislators had certain problems with it on the floor. Rep. Mercer said there was a concern for children being taken on motorcycles against the will of the parents and anyone 18 years of age endangering the welfare of those younger children. This would also be effective in the case where a 17-year-old moves from his residence without the consent of his parents. Technically, anyone assisting him could be violating the law.

Rep. Hannah said that there are children ages 16 to 18 years living under the "supervision" of an adult who may not be interested in their well being. Rep. Brown responded by saying that the family situation may be at fault, and this bill would try to legally adjust what has been done. Rep. Addy suggested that by omitting the sexual implications, the bill may be easier to live with. It was Rep. Krueger's opinion that while there may be problems, passage of this bill will not solve the problems, and it is also inconsistent with earlier legislation that this committee passed.

Rep. Keyser stated that under 41-3-408 (limited emancipation) there is a set standard administered by court procedure. If a child wishes to be on his/her own after 16 years of age, this bill may present a conflict.

Rep. O'Hara withdrew his previous motion to pass the bill and instead moved that SB 352 BE TABLED. The motion was seconded by Rep. Brown. The question having been called, the tabling motion carried on a voice vote.

child is paid by the school district, and the Office of Public Instruction has never turned down any reimbursement costs requested by surrogate parents. Rep. Bergene questioned what capabilities the surrogate parent would need, and Mr. Britton answered that the O.P.I. would be providing a training program for administrators and special education directors to assist in the proper criteria and training of surrogate parents. Rep. Bergene suggested that an amendment to the bill indicate the training program and specific criteria. Rep. Rapp-Svrcek mentioned that surely the training program would cost more than the \$1,200 fiscal indicated. Mr. Britton responded by saying that there is another grant writing organization which is not a part of his department. Rep. Keyser asked what the rules would be for determining reimbursed expenses for a surrogate parent. Mr. Britton said that the parent would have to sit in on the child's educational planning meetings which would amount to three meetings per year.

Rep. Brown moved that SB 319 BE CONCURRED IN. The motion was seconded by Rep. Bergene. Rep. Hannah pointed out to Rep. Rapp-Svrcek that if the O.P.I. had been concerned with the cost of implementing this program, they would have testified before both this committee and the Education Committee expressing that particular concern. Bob Stocktaon did not indicate that the costs were a problem. The question was called on the motion, and it carried unanimously. The bill will be carried by Rep. Bergene. In response to Rep. Rapp-Svrcek, it was Rep. Hannah's opinion that a new fiscal note would not be required.

ACTION ON SENATE BILL NO. 449: Rep. Bergene moved that SB 449 BE CONCURRED IN. The motion was seconded by Rep. Darko. Rep. Bergene further moved the following amendments:

1. Title, line 6.
Strike: "AUTHORIZING"
Insert: "REQUIRING"
2. Page 5, line 6.
Strike: "MAY"
Insert: "shall"

Rep. Gould seconded the motion on the above amendments. Rep. Bergene explained that in her research, the states that have pioneered mandatory arrests are Oregon and Minnesota, and the mandatory arrest provision has made a large difference as the occurrences are two and one-half times greater without the law. Arrest and overnight incarceration seem to be extremely effective, and Rep. Bergene feels it should be included in the bill.

Rep. Mercer made a substitute motion to include Rep. Bergene's amendments in addition with amending the title,

line 6 following "IN" by inserting "CERTAIN". Furthermore, he moved to amend page 5, line 9 following "domestic abuse" strike "or aggravated" through "member," and insert "any time within a four hour period prior to the arrest." Rep. Keyser seconded the motion. Rep. Mercer wished to include in the motion another amendment which would occur on page 4, line 10 following "abuse" by striking "or aggravated" through "household member" on line 11.

Rep. Miles spoke in favor of the above amendment because she feels it may alleviate some problem areas for police officers.

Rep. Addy feels this bill is a terrible bill. While he does not condone domestic violence, this bill implies that the state better knows how to deal with an individual's life than does the individual. He feels that by passing this bill, the legislature is placing pressure into the system that it was never designed to tolerate. He feels that it would take discretion away from the criminal justice system. Rep. Montayne responded by saying that those people who testified on this bill were angry, and they have a right to be angry as victims of domestic abuse.

Rep. Krueger said that he doesn't think that by placing the mandatory arrest provision in the law it is necessarily accomplishing the goal it was intended to. He feels that a little independent judgment should be left with police officers. Rep. Hannah said he could not support the amendment unless the arrest stays at an option of the police officers. Following further discussion, the question was called on the above amendments, and the motion carried 12-6. (See roll call vote.)

Rep. Addy moved to amend the title, line 12 following "MCA" by inserting "; AND PROVIDING A TERMINATION DATE"; furthermore, he moved to amend page 6, following line 16 by inserting: "NEW SECTION. Section 8. Termination date. This act terminates July 1, 1987." The motion was seconded by Rep. Cobb and carried on a voice vote.

Rep. Keyser moved to amend page 2, beginning on line 23 by reinserting the stricken new section in its entirety. The motion was seconded by Rep. Eudaily and failed on a voice vote.

Rep. Gould moved that SB 449 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Hammond. Rep. Mercer further moved to amend page 3, line 6 following "community" by inserting "." and striking "and give the victim immediate notice of any legal rights and remedies available." The motion was seconded by Rep. O'Hara.

97

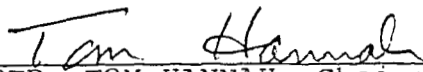
Rep. Rapp-Svrcek made a substitute motion to amend page 3, line 7 following "victim" by inserting "the following notice:"; furthermore, the remainder of the paragraph would be stricken. Rep. Mercer seconded the motion, and it carried on a voice vote.

Rep. Hammond moved that SB 449 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Gould. Rep. Mercer further moved to amend page 2, line 1 following "~~marriage~~" by striking "~~ADULT~~". The motion was seconded by Rep. Keyser. Rep. Cobb stated his objection to this amendment because he is against expanding the bill at this time. The question was called, and the motion failed 6-12. (See roll call vote.) Rep. Hammond moved that SB 449 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Bergene and carried 13-5. (See roll call vote.)

ACTION ON SENATE BILL NO. 446: Rep. Eudaily moved that SB 446 BE CONCURRED IN AS AMENDED. This bill was considered at yesterday's executive session. The committee researcher, Brenda Desmond prepared and submitted the amendments that had been actually adopted during the hearing. See Exhibit B hereto attached. After the committee reviewed the amendments, the question was called on Rep. Addy's motion to adopt amendment #4 of Exhibit B. The motion carried 11-5. Rep. Addy further moved to adopt amendment #1, 2, and 3 of Exhibit B. The motion carried 13-3. (See roll call vote.)

The question was called on Rep. Eudaily's prior motion, and it carried on a voice vote. Rep. Kitselman will carry the bill on the floor.

ADJOURN: Upon motion of Rep. Keyser, the meeting adjourned at 10:05 a.m.


REP. TOM HANNAH, Chairman

STANDING COMMITTEE REPORT

March 28

19 35

page 1 of 2

MR. Speaker:

We, your committee on Judiciary

having had under consideration Senate Bill No. 449

Third reading copy (Blue)
color

**CREATES CRIME OF DOMESTIC ABUSE; REQUIRES ARREST FOR
ITS VIOLATION**

Respectfully report as follows: That Bill No.
be amended as follows:

1. Title, line 6.

Strike: "AUTHORIZING"

Insert: "REQUIRING"

Following: "IN"

Insert: "CERTAIN"

2. Title, line 12.

Following: "MCA"

Insert: "; AND PROVIDING A TERMINATION DATE"

3. Page 3, line 7.

Following: "victim"

Strike: "immediate" through "with" on line 9.

4. Page 3, line 9.

Following: "following"

DO PASS

Strike: "statement"

Insert: "notice"

(continued)

5.

4. Page 4, line 10.

Following: "abuse"

Strike: "or aggravated" through "household member" on line 11.

5. Page 5, line 6.

Strike: "MAY"

Insert: "shall"

7.

6. Page 5, line 3.

Following: "abuse"

Strike: "or aggravated" through "member,"

7. Page 6, following line 16.

Insert: "NEW SECTION. Section 8. Termination date. This act terminates July 1, 1987."

AND AS AMENDED,
BE CONCURRED IN

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/28/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985 BILL NO. SB 449 TIME _____

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb		✓
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould		✓
Edward Grady		✓
Joe Hammond		✓
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles		✓
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynnn
Secretary

Tom Hannah
Chairman

Motion: Rep. Mercer further moved to amend page 2, line 1
following "marriage," by striking "ADULT". The motion was
seconded by Rep. Keyser and failed 6-12.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985

BILL NO. SB 449

TIME 9:45

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek		✓
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Mercer moved a substitute motion which would include
Rep. Bergene's amendments re-inserting the mandatory arrest provision
in addition to a few additional amendments which is set forth in the
minutes and standing committee report. The motion carried 12-6.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985

BILL NO. SB 449

TIME _____

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond	✓	
Kerry Kevser		✓
Kurt Krueger		✓
John Mercer	✓	
Joan Miles	✓	
John Montavne	✓	
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Hammond moved that SB 449 BE CONCURRED IN AS AMENDED.

The motion was seconded by Rep. Bergene and carried 13-5.

COMMITTEE OF THE WHOLE AMENDMENT

HOUSE

4-1-85
DATE
10:20 PM
TIME

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL No. 449

third reading copy (blue) as follows:
Color

AMENDING COMMITTEE OF THE WHOLE AMENDMENT - HANNAH 3-29 AT 7:30 PM:

1. Amendment #1, Insert instruction.
Following: "arrest,"
Insert: "and that there is a strong possibility of public
danger if no arrest is made"

ADOPT
REJECT

Bradley
Rep. Bradley

COMMITTEE OF THE WHOLE AMENDMENT

4010800L.CW

4-1-85
DATE
8:00 AM
TIME

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL No. 449

third reading copy (blue) as follows:
Color

AMENDING HOUSE STANDING COMMITTEE REPORT OF 3-28-85:

1. Amendment #2, Insert instruction.
Following: "PROVIDING"
Insert: "AN EFFECTIVE DATE AND"
2. Amendment #8, Insert instruction.
Following: "Section 8."
Insert: "Effective date --"
Following: "date."
Insert: "This act is effective July 1, 1985."

ADOPT
REJECT

Rep. Bergene
Rep. Bergene

CONFERENCE COMMITTEE REPORT

Report No. 1

APR. 23, 1985

MR. SPEAKER

We, your FREE Conference Committee onSENATE BILL NO. 449, reference copy,met and considered SENATE BILL NO. 449 in its entirety.

We recommend as follows:

1. Title, line 6.
Strike: "REQUIRING"
Insert: "PRESUMING"

2. Title, line 7.
Strike: "CERTAIN"

3. Title, line 13.
Strike: "AND A TERMINATION DATE"

4. Page 3.
Following: line 2
Insert: "NEW SECTION. Section 2. Written report when no arrest made in domestic violence situation. When a peace officer is called to the scene of a reported incident of domestic violence but he does not make an arrest, he shall file a written report with the officer commanding the law enforcement agency employing him, setting forth the reason or reasons for his decision."
Renumber: subsequent sections

Page 1 of 2 (CONTINUED)

And that this Conference Committee report be adopted.

FOR THE SENATE

[Signature]
REGAN, CHM
[Signature]
MAZUREK

GALT
ADOPT REJECT

FOR THE HOUSE

[Signature]
BERGENE
[Signature]
EUDAILY
[Signature]
KEENAN
[Signature]
WALCHON
WALDRON

APR 23, 1985

Page 2 of 2
FCCSB 449

5. Page 3, line 10.
Following: "with"
Insert: "immediate notice of any legal rights and remedies available. The notice must include furnishing the victim with"
Strike: "NOTICE"
Insert: "statement"

6. Page 4, line 12.
Following: "member"
Insert: "or aggravated assault against a family member or household member"

7. Page 5, line 7.
Strike: "SHALL"
Insert: "may"

8. Page 5, lines 11 through 13.
Strike: "ANYTIME WITHIN A 4-HOUR PERIOD PRIOR TO THE ARREST AND THAT THERE IS A STRONG POSSIBILITY OF PUBLIC DANGER IF NO ARREST IS MADE."
Insert: "or aggravated assault against a family member or household member"

9. Page 5, line 19.
Following: "ARREST."
Insert: "Arrest is the preferred response in domestic abuse cases involving injury to the victim, use or threatened use of a weapon, violation of a restraining order, or other imminent danger to the victim."

10. Page 6, lines 20 through 22.
Strike: section 8 in its entirety

FCCSB449

Chairman

CONFERENCE COMMITTEE REPORT

CORRECTED REPORT

Report No. 2

April 24, 1985

April 24, 1985

MR. SPEAKER

We, your _____ FREE _____ Conference Committee on

SENATE BILL NO. 449, reference copy - salmon

met and considered _____

SENATE BILL NO. 449 in its entirety

We recommend as follows:

1. Title, line 6.
Strike: "REQUIRING"
Insert: "PRESUMING"

2. Title, line 7.
Strike: "CERTAIN"

3. Title, line 13.
Strike: "AND A TERMINATION DATE"

4. Page 3, following line 2.
Insert: "NEW SECTION. Section 2. Written report when no arrest made in domestic violence situation. When a peace officer is called to the scene of a reported incident of domestic violence but he does not make an arrest, he shall file a written report with the officer commanding the law enforcement agency employing him, setting forth the reason or reasons for his decision."
Renummer: subsequent sections

CONTINUED

And that this Conference Committee report be adopted. PAGE 1 OF 2

FOR THE SENATE

Regan, Chm.

Mazdrek

Galt

FOR THE HOUSE

Bergene

Eudaily

Keenan

Waldron

FREE CONFERENCE COMMITTEE REPORT

SB 449

PAGE 2 OF 2

5. Page 3, line 10.

Following: "with"

Insert: "immediate notice of any legal rights and remedies available. The notice must include furnishing the victim with"

Strike: "NOTICE"

Insert: "statement"

6. Page 4, line 12.

Following: "member"

Insert: "or aggravated assault against a family member or household member"

7. Page 5, line 7.

Strike: "SHALL"

Insert: "may"

8. Page 5, lines 11 through 13.

Strike: "ANYTIME WITHIN A 4-HOUR PERIOD PRIOR TO THE ARREST AND THAT THERE IS A STRONG POSSIBILITY OF PUBLIC DANGER IF NO ARREST IS MADE,"

Insert: "or aggravated assault against a family member or household member"

9. Page 5, line 19.

Following: "ARREST."

Insert: "Arrest is the preferred response in domestic abuse cases involving injury to the victim, use or threatened use of a weapon, violation of a restraining order, or other imminent danger to the victim."

10. Page 6, line 20.

Strike: " _ "

11. Page 6, lines 21 and 22.

Strike: "TERMINATION DATE"

Following: "1985."

Strike: "THIS" through "1987." on line 22.

ADOPT REJECT

STATE PUB. CO.
Helena, Mont.

EX-100

SENATE BILL NO. 449

INTRODUCED BY REGAN, JACOBSON, ECK, BENGTSON, HARDING

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "DOMESTIC ABUSE" AND PROVIDING THAT COMMISSION OF DOMESTIC ABUSE IS A CRIMINAL OFFENSE; REQUIRING AUTHORIZING REQUIRING ARREST IN CERTAIN CASES OF DOMESTIC ABUSE; PROVIDING-AN-ARRESTING OFFICER-WITH-IMMUNITY-FROM--CIVIL--LIABILITY--UNDER--CERTAIN CIRCUMSTANCES; PROHIBITING A PEACE OFFICER FROM ACCEPTING BAIL ON BEHALF OF A JUSTICE OF THE PEACE WHEN A PERSON IS ARRESTED FOR DOMESTIC ABUSE; AMENDING SECTIONS 46-6-105, 46-6-401, AND 46-9-302, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

WHEREAS, ~~one of every two women in the United States~~ will be abused during her lifetime; and

WHEREAS, recent studies conducted in states that have adopted statutes requiring arrest in cases of domestic abuse show a reduced rate of repeat violence; and

WHEREAS, arrest removes the abuser from the home so the abuse will not continue.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Domestic abuse. (1) A person commits the offense of domestic abuse if he:

(a) purposely or knowingly causes bodily injury to a family member or household member; or

(b) purposely or knowingly causes reasonable apprehension of bodily injury in a family member or household member. The purpose to cause reasonable apprehension or the knowledge that reasonable apprehension would be caused shall be presumed in any case in which a person knowingly points a firearm at or in the direction of a family member or household member, whether or not the offender believes the firearm to be loaded.

(2) For the purposes of this section and 46-6-401, "family member or household member" means a spouse, former spouse, ~~adult--person--related--by--blood--or--marriage,~~ ADULT PERSON RELATED BY BLOOD OR MARRIAGE, or adult person of the opposite sex residing with the defendant or who formerly resided with the defendant.

(3) A person convicted of domestic abuse for the first or second time shall be fined not to exceed \$500 or be imprisoned in the county jail not to exceed 6 months, or both. On a third or subsequent conviction for domestic abuse, the person convicted shall be fined not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both.

NEW-SECTION--SECTION-2--IMMUNITY--ANY-PEACE-OFFICER
ACTING-IN-GOOD-FAITH-IN-MAKING-AN-ARREST-PURSUANT-TO

46-6-401(2)--IS--IMMUNE--FROM--CIVIL--LIABILITY--THAT--MIGHT
OTHERWISE-RESULT-BY-REASON-OF-HIS-ACTION-

NEW SECTION. Section 2. Notice of rights. Whenever a peace officer arrests a person for domestic abuse, as defined in [section 1], if the victim is present, the officer shall advise the victim of the availability of a shelter or other services in the community and give the victim immediate--notice--of--any--legal--rights--and--remedies--available--The--notice--must--include--furnishing--the--victim with a copy of the following statement NOTICE:

"IF YOU ARE THE VICTIM OF DOMESTIC ABUSE, the county attorney's office can file criminal charges against your abuser. You have the right to go to court and file a petition requesting any of the following orders for relief:

(1) an order restraining your abuser from abusing you;
(2) an order directing your abuser to leave your household;

(3) an order preventing your abuser from transferring any property except in the usual course of business;

(4) an order awarding you or the other parent custody of or visitation with a minor child or children;

(5) an order restraining your abuser from molesting or interfering with minor children in your custody; or

(6) an order directing the party not granted custody to pay support of minor children or to pay support of the

other party if there is a legal obligation to do so".

Section 3. Section 46-6-105, MCA, is amended to read:

"46-6-105. Time of making arrest. An arrest may be made on any day and at any time of the day or night, except that a person cannot be arrested in his home or private dwelling place at night for a misdemeanor committed at some other time and place unless upon the direction of a magistrate endorsed upon a warrant of arrest. However, a person may be arrested in his home or private dwelling at night if he is being arrested pursuant to 46-6-401(2) for the offense of domestic abuse or aggravated assault against a family member or household member. A SUMMONS OF A PEACE OFFICER TO THE HOME OR PRIVATE DWELLING BY A FAMILY OR HOUSEHOLD MEMBER CONSTITUTES AN EXIGENT CIRCUMSTANCE FOR MAKING AN ARREST PURSUANT TO 46-6-401(2)."

Section 4. Section 46-6-401, MCA, is amended to read:

"46-6-401. Circumstances in which a peace officer may make--an--arrest makes arrests. (1) A peace officer may arrest a person when:

(1)(a) he has a warrant commanding that such person be arrested;

(2)(b) he believes on reasonable grounds that a warrant for the person's arrest has been issued in this state;

(3)(c) he believes on reasonable grounds that a felony

1 warrant for the person's arrest has been issued in another
2 jurisdiction; or

3 ~~{4}~~(d) he believes on reasonable grounds that the
4 person is committing an offense or that the person has
5 committed an offense and the existing circumstances require
6 his immediate arrest.

7 (2) A peace officer shall MAY SHALL arrest a person
8 anywhere, including his place of residence, if the peace
9 officer has probable cause to believe the person is
10 committing or has committed domestic abuse or aggravated
11 assault-against-a-family-member-or-household-member ANYTIME
12 WITHIN A 4-HOUR PERIOD PRIOR TO THE ARREST AND THAT THERE IS
13 A STRONG POSSIBILITY OF PUBLIC DANGER IF NO ARREST IS MADE,
14 even though the offense did not take place in the presence
15 of the peace officer. A-peace-officer-may-not-issue-a-notice
16 to-appear-in-lieu-of-arrest-under-this-subsection. A SUMMONS
17 OF A PEACE OFFICER TO A PLACE OF RESIDENCE BY A FAMILY OR
18 HOUSEHOLD MEMBER CONSTITUTES AN EXIGENT CIRCUMSTANCE FOR
19 MAKING AN ARREST."

20 Section 5. Section 46-9-302, MCA, is amended to read:

21 "46-9-302. Bail schedule for minor offenses --
22 acceptance by peace officer. (1) A justice of the peace or
23 city judge may, in his discretion, establish and post a
24 schedule of cash bail for offenses ~~not--amounting-to-a~~
25 felony, except for offenses amounting to felonies and the

1 offense of domestic abuse.

2 (2) A peace officer may accept bail in behalf of the
3 justice of the peace or city judge in accordance with the
4 schedule. In the event the peace officer accepts bail, he
5 shall give a signed receipt to the offender setting forth
6 the bail received. The peace officer shall then deliver the
7 bail to the justice of the peace or city judge before whom
8 the offender is to appear, and the justice of the peace or
9 city judge shall give a receipt to the peace officer for the
10 bail delivered."

11 NEW SECTION. Section 6. Severability. If a part of
12 this act is invalid, all valid parts that are severable from
13 the invalid part remain in effect. If a part of this act is
14 invalid in one or more of its applications, the part remains
15 in effect in all valid applications that are severable from
16 the invalid applications.

17 NEW SECTION. Section 7. Codification instruction.
18 Section 1 is intended to be codified as an integral part of
19 Title 45, and the provisions of Title 45 apply to section 1.

20 NEW SECTION. SECTION 8. EFFECTIVE DATE -- TERMINATION
21 TERMINATION DATE. THIS ACT IS EFFECTIVE JULY 1, 1985. THIS
22 ACT TERMINATES JULY 1, 1987.

-End-